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## PUBLIC DOCUMENTS

## THE UNITED STATES

1894

OFFICE OF THE COMMISSIONER OF GENERAL LAND OFFICE

NOTICE OF THE COMMISSIONER OF GENERAL LAND OFFICE

TO THE PUBLIC LANDS OF THE UNITED STATES

AND TO THE PUBLIC LANDS OF THE TERRITORIES

AND TO THE PUBLIC LANDS OF THE DISTRICT OF COLUMBIA

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STATE PAPERS  
AND  
PUBLIC DOCUMENTS  
OF  
THE UNITED STATES,

FROM THE

ACCESSION OF GEORGE WASHINGTON TO THE PRESIDENCY, EXHIBITING A COMPLETE VIEW OF OUR FOREIGN RELATIONS SINCE THAT TIME.

VOLUME VI.

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THIRD EDITION.

PUBLISHED UNDER THE PATRONAGE OF CONGRESS.

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INCLUDING

CONFIDENTIAL DOCUMENTS,

FIRST PUBLISHED IN THE SECOND EDITION OF THIS WORK.

BOSTON :

PRINTED AND PUBLISHED BY THOMAS E. WAIT.

1819.

146730.  
1518118.

DISTRICT OF MASSACHUSETTS, TO WIT:

DISTRICT CLERK'S OFFICE.

BE it remembered, that on the twelfth\* day of January, A. D. 1819, and in the forty-third year of the Independence of the United States of America, Thomas B. Wait, of the said district, has deposited in this office the title of a book, the right whereof he claims as proprietor, in the words following, to wit:

"State Papers and Publick Documents of the United States, from the accession of George Washington to the Presidency, exhibiting a complete view of our Foreign Relations since that time. Third edition. Published under the patronage of Congress. Including Confidential Documents, first published in the second edition of this work."

In conformity to the act of the Congress of the United States, entitled, "An act for the encouragement of learning, by securing the copies of Maps, Charts, and Books, to the authors and proprietors of such copies, during the times therein mentioned:" and also to an act, entitled, "An act supplementary to an act, entitled, An act for the encouragement of learning, by securing the copies of Maps, Charts, and Books, to the authors and proprietors of such copies during the times therein mentioned; and extending the benefits thereof to the arts of Designing, Engraving and Etching Historical, and other Prints."

JNO. W. DAVIS,  
Clerk of the District of Massachusetts.

\* The date of the certificate of copy right in Vols. I, II and XI, instead of the *first* should be the *twelfth* day of January.

## CONTENTS.

	Page
DOCUMENTS relative to attack on frigate Chesapeake—continued from vol. v.	5
Message, Nov. 11, 1807, relative to Ex-Bashaw of Tripoli	47
Message, Nov. 13, 1807, transmitting President's proclamation interdicting the harbours and waters of the United States to British armed vessels	47
Message, Dec. 7, 1807, relative to Chesapeake and Leopard	51
Report on letter from William Eaton, Esq.	51
Message, Dec. 18, 1807, recommending embargo	57
Message, Feb. 2, 1808, communicating British orders in council	61
Message, Feb. 9, 1808, relative to commencement of war by Algiers	69
Message, Feb. 15, 1808, relative to termination of war with Algiers	70
Message, Feb. 26, 1808, relating to decrees and orders of Great Britain and France	73
Message, March 17, 1808, communicating French Milan decree, and one of Spain in conformity with it	73
Message, March 22, 1808, relative to England and France	79
Message, March 22, 1808, and documents, exhibiting a complete view of our differences with Great Britain and France	79
Correspondence between Mr. Canning and Mr. Monroe relative to attack on Chesapeake	86
Correspondence between Mr. Madison and Mr. Rose on same subject	124
Letter from Mr. Madison to Mr. Monroe, Jan. 1804, transmitting plan of a treaty between the United States and Great Britain	149
Same to same, Feb. 1804, relative to north west boundary between United States and Great Britain	169
Same to same, March, 1804, relative to expiration of the treaty of 1794, usually called Jay's treaty	172
Same to same, March, 1805, relative to impressments	173
Same to same, Jan. 1806, relative to British depredations	180
Same to same, April, 1806, relative to non-importation act; and appointment of Mr. Pinkney as minister plenipotentiary	181
Same to same, May, 1806, relative to north western and north eastern boundaries between United States and Great Britain	183
Same to same, May, 1807, relative to northern boundaries	185
Three letters from Mr. Monroe to Mr. Madison, March, April, August, 1804, relative to treaty proposed	186
Project of a convention presented to lord Hawkesbury, April, 1804,	191
Correspondence of Mr. Monroe with lord Mulgrave, Aug. to Nov. 1805, relative to seizures by the British	199
Negotiation of Mr. Monroe with Mr. Fox, February to June, 1806, resulting in the modification of the question on the carrying trade, by the blockade of May 16, 1806, from Ostend to Brest	209

Instructions from Mr. Madison to Messrs. Monroe and Pinkney, May, 1806, to Feb. 1807, relative to negotiation	236
Instructions from same to same, March, May and July, 1807, after rejection of the treaty	264
Letters from Messrs. Monroe and Pinkney to Mr. Madison, July, Aug. Sept. and Nov. 1806 ; progress of negotiation with lords Holland and Auckland	290
Letter from the same to the same, Jan. 1807, transmitting treaty concluded with British commissioners	332
Copy of treaty with Great Britain	353
Note from British commissioners to Messrs. Monroe and Pinkney, Dec. 1806, relative to the Berlin decree	366
Note from American commissioners to lord Howick, March, 1807, relative to certain claims and prize causes	369
Extra official communication with regard to the Canada trade	375
Letter from Messrs. Monroe and Pinkney, April, 1807, notifying a change of British ministry, and progress of negotiation	378
Same to same, April, 1807, relative to additional articles to treaty	387
Copy of additional and explanatory articles to treaty	393
Letter from Messrs. Monroe and Pinkney to Mr. Madison, Oct. 10, 1807, relative to negotiation with Mr. Canning	400
Letter from same to same, Oct. 22, 1807, relative to negotiation with Mr. Canning	410
Letter from M. Monroe to Mr. Madison, Richmond, Feb. 28, 1808, explanatory of his views of treaty with Great Britain	419
Extract of a letter from general Armstrong, Paris, July, 1807, relative to captures by French privateers	456
Correspondence between Regnier, Champagny, and general Armstrong, Sept. and Oct. 1807, relative to Berlin decree	458
Correspondence of general Armstrong, Nov. 1807, relative to the case of the Horizon	463
Copy of the Milan decree, Nov. 11, 1807	470
Message, March 30, 1808, relative to England and France	472
Message, April 1, 1808, transmitting report of Secretary of State, relative to dates of certain letters referred to in letter from general Armstrong	472
Message, April 2, 1808, transmitting letter from Champagny, and another from Mr. Erskine	473
Report of committee to whom was referred correspondence between Mr. Monroe and Mr. Canning, &c. April 16, 1808	478
Message opening Congress, Nov. 8, 1808.	483
Documents accompanying above message ; correspondence between Mr. Madison and general Armstrong, relative to Berlin decree and French depredations	491—499



# AMERICAN STATE PAPERS.

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## DOCUMENTS

ACCOMPANYING THE PRESIDENT'S MESSAGE OF OCTOBER  
27, 1807.

[Continued from Vol. V.]

No. 2.

I.

*The Captain Commandant of Fort Johnson to the Command-  
ing Officer of his B. M. Sloop of War Driver. May  
2d, 1807.*

SIR,

**T**HE President of the United States of America, hav-  
ing by proclamation bearing date May 23, 1807, for  
ever interdicted his Britannick majesty's sloop of war  
Driver, from entering "any port or harbour of the United  
States," and the said vessel having entered this port, in  
contempt of the said proclamation, my duty compels me  
to demand, that the sloop of war Driver do depart from  
this harbour within twenty-four hours from the date here-  
of. Need I add, sir, how repugnant it would be to my  
feelings should any blood be spilt, which must cer-  
tainly be the case if this communication be not complied  
with. Lieutenant Wyndham of the artillery is charged  
with the delivery of this, and will receive your reply.

MICHAEL KALTEISEN,  
Captain Commandant.

## II.

*The Commanding Officer of the British Sloop of War Driver, to the Captain Commandant of Fort Johnson.  
May 3, 1807.*

SIR,—I have received your letter, and having some doubts as to the authority by which it was written, I thought proper to satisfy myself on that head before I should reply.

By the threat it contains you appear, like your government, to have something to learn. A British subject knows too well how to respect and obey the laws of his own country, to offer intentionally an outrage to those of others, when once they are known to be such; but I have to observe, the proclamation you mention to have been issued by the President of the United States of America, in May, 1807, I know nothing of. Of that which was issued in May, 1806, I have only to say, that so far from being either creditable or becoming to the President of a country wishing to be ranked among the civilized nations of the world, it would, in the opinion of every liberal and enlarged mind, have disgraced the sanguinary pen of Robespierre, or the most miserable and petty state of Barbary. It appearing that the supposed offence is to be remedied by a repetition of the circumstances complained of, and that on those who so far from having any thing to do with it, was not even on or near the American coast at the time; and as captain Whitby's trial may probably at this moment be pending, with the concurrence of the United States, and the proclamation resting upon his being brought to justice, it ought not to have been thought of. However as my proceeding to sea comes exactly within the limits of my intention, according to the orders I am under, I shall do so, whenever the pilot shall think it proper, which orders have for their view, the advantage of the American flag, as well as the protection of the British. But I must observe, that from the difficulty I have experienced in obtaining water for the purposes I wish, I shall be obliged to have recourse to such methods as are completely in my power, and which I should not otherwise have thought of. In the mean time it is necessary to observe, that his majesty's ship under my command,

is at all times perfectly ready to resist and punish any insult that may be offered to the flag she has the honour to bear, to the last drop of blood that shall remain of the dutiful and loyal subjects of an adored sovereign, and exalted country. I am, &c.

WILLIAM LOVE.

### III.

*The Captain Commandant of Fort Johnson, to the Commanding Officer of the British Sloop of War Driver. May 3, 1807.*

SIR,—I have received your letter of this day. The nature of the contents of it demands of me to transmit it immediately to the government, which I shall do by a special messenger.

I am, &c.

MICHAEL KALTEISEN,  
Captain Commandant.

*The Captain Commandant of Fort Johnson, to the President of the United States. May 5, 1807.*

SIR,—I deem it my duty to despatch a special messenger, to lay before your excellency a correspondence that has taken place between myself and the commanding officer of his Britannick majesty's sloop Driver, now lying in this harbour.

The said sloop, interdicted by your excellency from ever entering any port or harbour of the United States, anchored abreast this fort, on Thursday (30th April.) On Friday (May 1,) my officers, lieutenants Roberts and Wyndham, waited upon the governor of this state, to consult with him, and receive his orders, relative to measures necessary to be taken to expel said vessel from this port; they could not see him: in consequence I addressed a note on Saturday (May 2,) to the commanding officer of said vessel, of which a copy is herewith sent, and marked No. 1.

On Sunday, May 3d, I received an answer from the commanding officer of the said sloop Driver, of which No.

II. is the original. Its extraordinary language induced me to forward it immediately by an officer, to your excellency. My reply thereto is marked No. III.

Lieutenant Wyndham, who is the bearer of these despatches, will furnish any other information that may be required. I beg leave to recommend him to the notice of your excellency. Hoping that my conduct may meet your approbation, I have the honour to remain, &c.

MICHAEL KALTEISEN,  
Captain Commandant.

No. 3.

UNITED STATES OF AMERICA.

*State of Maryland, to wit:*

I, SAMUEL STERETT, notary publick, by letters patent under the great seal of the state of Maryland, duly commissioned and qualified, residing in the city of Baltimore, in the state aforesaid, do hereby certify, attest, and make known, that on the day of the date hereof, before me, personally appeared George Davis, master of the brig Mercury, of Philadelphia, then lying in the port of Baltimore, and recently arrived from Bordeaux, who being by me solemnly sworn, did depose, declare and for truth say, that on Tuesday the 19th instant, being on his passage, and having the wind to the northward with a strong current setting against them, the pilot on board the said brig, brought her to anchor in seven and a half fathoms water, about two miles from the shore, and about 25 miles to the southward of cape Henry.

And this appearer saith, that while so lying at anchor, he was boarded by an officer from the British frigate Melampus, who, after examining the brig's papers, requested this appearer to return with him on board the Melampus, which this appearer declined, thinking himself within the limits and maritime jurisdiction of the United States, the said officer also himself admitting that said brig was anchored within three miles of the shore.

And this appearer saith that the said officer then left the brig, but in a little time came back and informed this appearer, that he had positive orders to take him and his



papers, letter-bag, &c. on board the said frigate; that this appearer accordingly went with the said papers, and on getting on board the frigate, his papers and letter-bag were carried into the cabin, and this appearer left on deck, and not permitted to accompany them: that after his papers and letter-bag had been detained from him about three quarters of an hour, they were restored to him, and he himself put on board the brig: that immediately on getting aboard his own vessel, he descended into the cabin, and on opening the said letter-bag, discovered that a number of the letters had been opened, and the invoices and bills of lading they originally contained thrown promiscuously into the bag, and in the greatest confusion and disorder, in which situation he lodged the said letters in the post office in this city immediately on his arrival yesterday.

In testimony whereof, the said deponent hath hereunto subscribed his name, and I, the said notary, have hereunto set my hand and affixed my notarial seal, the twenty-third day of May, in the year of our Lord one thousand eight hundred and seven.

GEORGE DAVIS.

SAMUEL STERETT,  
Notary Publick.

#### No. 4.

*Captain Harrison's Report to the Collector of the Customs at Norfolk, respecting an Outrage committed by the British Squadron in the Chesapeake, July 6, 1807.*

THE schooner *Cynthia Ann*, from Folly Landing, captain Harrison, was fired at in Hampton Roads, by a boat belonging to the British squadron, but not thinking proper to stop, continued his way up to Norfolk, although they continued firing from the boat, to the number of 14 or 16 guns, but of a sudden found he was fired at from the tender\* just ahead of him; he immediately rounded to, and was boarded, and asked why, a damned rascal, he did not heave to for the boat; to which he answered, that he did not know why he was to be stopped in his own harbour.

\* The tenders were purchased here as advice boats, and are now armed.

The boat then came up, and the crew on board her also abused him, and said they wished they had sunk him, and that they aimed to hit him, which he thinks they did, as their shot seemed very well aimed. They ordered him to tow them back, which he did, and was dismissed.

*Norfolk, July 6, 1807.*

SIR,—Above is a copy of a report made to me by captain Harrison, which I considered my duty to forward. All vessels are stopped coming to this place, and fired at within our harbours. This report I was requested to forward to you for your consideration.

I am, respectfully, your obedient servant,

THOMAS NEWTON.

The Hon. James Madison, &c. &c.

No. 5.

UNITED STATES OF AMERICA.

*State of New York, ss.*

By this publick instrument, be it known to all whom the same doth or may concern, That I, Maltby Gelston, a publick notary in and for the state of New York, residing in the city of New York, by letters patent under the great seal of the said state, duly commissioned and sworn, and in and by the said letters patent, invested "with full power and authority to attest deeds, wills, testaments, codicils, agreements, and other instruments in writing, and to administer any oath or oaths to any person or persons," do hereby certify, That, on the day of the date hereof, before me personally appeared the within named John Squire, George R. Rice, and Vinson Smith, who being by me duly sworn on the Holy Evangelists of Almighty God, did severally and solemnly depose and declare as follows :

That all and singular the matters and things contained and set forth in the within annexed statements in writing, (to which their names are subscribed) are, in every respect, correct, just, and true. And further they say not.

JOHN SQUIRE,

G. R. RICE,

VINSON SMITH.

Whereof an attestation being required, I have granted this under my notarial firm and seal.

Done at the city of New York, in the said state of New York, the 9th day of July, in the year one thousand eight hundred and seven.

In Præmissorum Fidem,

M. GELSTON, Notary Publick.

*City of New York, ss.*

JOHN SQUIRE, first lieutenant, and commander of the United States revenue cutter "Active," George R. Rice, second lieutenant, and Vinson Smith, mariner, acting as mate of the said vessel, being duly sworn, did depose and declare as follows, that is to say :

That they sailed in their above respective capacities, in and with the said vessel, from Washington city, having on board, as passenger, the vice president of these United States, and bound for this port of New York ; that on the twenty-ninth day of June last past, at half past four p. m. the said vessel being then under easy sail, with the wind from the the s. w. bound as aforesaid, cape Henry bearing south about four miles distant, they saw four armed ships lying at anchor, at the distance of about four and one half miles to the s. w. which they were informed, and verily believed, were British ships of war, under the command of commodore Douglass, and belonging to his Britannick majesty ; that the cutter being nearly abreast of the said ships, a gun was fired from one of them, and that immediately thereafter they discovered a boat from the said ship in pursuit of the cutter ; that the boat continued in chase of the cutter, and, at about three miles distant therefrom, a gun was fired from the boat towards the cutter, which these deponents believe to be a swivel ; that the boat continued to row and sail, and appeared to make every possible exertion to come up with the cutter, and actually gained on her until about six o'clock p. m. when they were within about one and a half mile of each other, and a breeze springing up, the boat fired a swivel, and soon after discontinued the pursuit ; that during the said chase, one gun, besides those before mentioned, was fired from the

boat, and two guns from one of the said ships ; that these deponents verily believe that the said armed boat was in pursuit of the said cutter, as there was no other vessel near them, and that the pennant of the said cutter was flying from the time the said armed ships were discovered until the discontinuance of the pursuit by the said armed boat, and that the pennant is such as is worn only by vessels employed in aid of the revenue of the United States.

And these deponents further say, that at the instance and request of the vice president of the United States aforesaid, they made memoranda of the foregoing circumstances shortly after they had occurred.

JOHN SQUIRE,  
G. R. RICE,  
VINSON SMITH.

No. 6.

*Passamaquoddy, June 24, 1807.*

DEAR SIR,—It being my duty, and for the information of government, I enclose an advertisement recently published at St. John's, New Brunswick. It has the appearance and complexion of a repetition of Mr. G. Leonard's threats, and is calculated to interrupt the peaceable intercourse in the plaister trade carried on in this bay.

This commander, I. Flintoph, arrived on the evening of the 5th instant, fired his guns promiscuously, and in every direction, even among houses. The shot is in my possession that rolled between innocent children, to the great alarm of the peaceable inhabitants of both governments in this vicinity.

The schooner Boston, James Perry, commander, just arrived from Boston, was brought to, having received a shot in her foremast ; but not being immediately boarded, the master bore away. I myself, saw four shot strike the water, fired at said schooner Boston, after she was within the limits of our port.

Captain Nathaniel Merryman of the schooner Rising States, an American vessel, lumber loaded, was boarded as getting under way, the tide being proper to proceed through the narrows, the master much maltreated, being taken and carried on board the armed vessel and detained



a considerable time, so as to lose his tide and time greatly to his detriment.

The citizens of the United States, in this place, are much shocked and exasperated at such treatment, and have enjoined it on me to forward this statement; are desirous their application for some armed vessels of the United States to be stationed here, may be re-considered, as the only means to prevent such imperious proceedings in future.

With all esteem and respect, I have the honour to be, &c.

LEWIS FRED. DE LESDERNIER.

The Honourable James Madison,

Secretary of State to the U. States.

Forwarded per Nathaniel Ranwood, Master of Brig  
Susanna, of Newburyport, via Alexandria.

*Transcript from the Royal Gazette, published at St. John's,  
New Brunswick, dated July 1, 1807. Publication con-  
tinued from the 8th June last.*

His majesty's armed schooner Pogge.

PUBLICK INFORMATION.

To prevent as much as possible any interruption being given to the carrying trade between these provinces and the United States of America, notice is hereby given to all concerned, that any vessel employed in conveying plaister of paris and grind stones, from the quarries of Nova Scotia and New Brunswick, to the places of consumption southward and westward of Portland, shall pass free and unmolested; and I pledge my word of honour that I will not interrupt them in their lawful pursuits, unless it shall appear that they have on board deserters from his majesty's navy or army; the same special regard will be paid to all persons coming within the description of fishermen. And to discourage and punish all those concerned in illicit traffick, I am determined to treat with the utmost severity such as are found delivering their cargoes into American vessels in the bay of Passamaquoddy or its neighbourhood, or who may clandestinely introduce any articles into either province contrary to law.

I. FLINTOPH,

Lieutenant and Commander.

St. John's, June 3, 1807.

*Dudley Island, (Eastport,) July 9, 1807.*

Lewis F. de Lesdernier, Esq.

DEAR SIR.—From your desire, whilst at my house last evening, to give a statement of the proceedings relative to the pirate which laid off Friars Head on day before yesterday, as far as I was acquainted, I will, as far as my memory relate. On the morning of that day (it being the 7th instant.) Mr. Graves came from Mr. Rice's and informed me, that the same vessel (as he supposed) that had committed depredations at this place some weeks past, had sent an armed boat the past night and taken an American schooner, commanded by captain Hews, from Mr. Rice's island, which probably might as she then lay, have toiled in so as to have touched the wharf; and likewise had taken captain York an American, out of his cabin, on board his own vessel; that captain York and captain Hews, with his crew and a number of American citizens, were confined on board the said pirate, and that Mr. Rice had gone to inform you of the proceedings, being much alarmed from such conduct not having any thing to justify it. I immediately went to Mr. Rice's island to get more information; there I observed that captain York's vessel lay so near the shore, that at low water and the wind blowing on, I supposed that her stern must have touched the shore, and from whence I was informed he was taken. On Mr. Rice's return, being informed that you were to be there soon, I waited until about half flood; before this, Messrs. Dexter, Allen, Joy, and others who had relations on board, came there with hopes to get them liberated. Fearful that some accident might prevent you from getting over soon enough to see what could be done, and a probability of a wind for them to go out, and from conjectures that she was a press vessel, and knowing a number taken who had no protections, (being landsmen,) I concluded to go on board in a birch canoe alone, with such documents as to prove that I was a publick officer of the commonwealth, expecting to get such as I knew to be citizens of our country liberated. For this purpose I was put home by those who were most interested; the boat, after landing me, crossed over towards the narrows, with expectations, as I understood, to land and go down to see

the officers on Campo Bello, who were acquainted with those who were in confinement, that from a representation there was another possibility for releasement. Previous to this, a boat passed with five on board, as I discovered with my glass, which appeared to have come from Moose island, and were passing towards Campo Bello; this boat was fired at, and went on board, and soon after left the vessel with five. While I was preparing to go on board, I heard the discharge of a cannon; I immediately went out and discovered the revenue colours in the boat in which you was in, about one third from Moose island, aiming directly for this island, and, as I supposed, three quarters or one mile within the limits of the United States; the smoke of this discharge appeared to be aimed for you. While observing this, (being on the south east point of this island) and I suppose a little more than a mile from this said pirate, another cannon was discharged, I suppose at you; I heard a ball very distinctly pass, in about the elevation of twenty degrees from me; this ball I suppose I heard strike, but did not see it. Supposing from your being on your lawful employment, within our own waters, you would be sunk before you would be forced on board, I immediately directed my family to be on their guard, as I expected you would pass my house. Just on my going out, I observed another discharge, I supposed aimed for you; I did not hear any ball from this, but was informed by others who I believe, that balls were fired every time, and am informed that one struck this island. In the course of this time the boat which landed me was fired at with a swivel, four balls were observed by them to strike the water, and some near the boat. I judged this boat to be as much as one quarter of a mile within the limits of the United States. Before this, I observed a person who, since, I have heard was doctor Edwards, coming from Moose island and bound up Soward's bay; three musket shot I saw fired towards him, and he was, after hard labour, forced on board. In all this time I did not see the least appearance of a flag displayed, which makes me give them the appellation of pirates. What I have here stated, I am willing to go before the proper authority of our country, and testify to.

I am, dear sir, very respectfully, yours,

WILLIAM ALLEN.

*District of Passamaquoddy, July 14, 1807.*

CONTINUATION, stating the conduct of J. Flintoph, commander of his Britannick majesty's armed schooner the Pogge.

On the 6th inst. in the evening late, the Pogge again made her appearance in this bay, and immediately under her guns, boarded and removed two American vessels, and took out of another the master and two hands: also, by after information, vexed two others; one was fired upon, several shot cut her rigging and sails, examined and dismissed; the other was taken, crew removed on board the armed vessel, manned and brought back under her guns, as may further appear by the list herewith, and depositions from No. 1 to 8.

NARRATION. On the 7th inst. early, being informed of the foregoing circumstances, I embarked in the revenue boat, accompanied by several of the principal inhabitants of Moose island, and proceeded to the southerly part of the port; we saw three cannon fired ahead of the revenue boat; judge Lincoln's boat having put off a little before us, having two women and a child, with other passengers, the three shot just mentioned were fired at her. The revenue boat proceeded on, round eastward of Dudley island to Rice's (or Fred Isle.) I was surprised we had not been fired upon, when we learnt every boat that passed in sight of the vessel had been brought to and forced along side. I felt a conviction than an interview with the commander was indispensable; but judged it imprudence to board in foreign jurisdiction, in my own boat, and unintroducted. I proceeded to Snug Cove on the island of Campo Bello: here I saw several which had been on board and were dismissed, who stated that a 12lb. carronade had been loaded and repeatedly ordered to be fired into the revenue boat. A British gentleman who had also been on board, observed, this commander acted like one insane or mad.

Having met with colonel Thomas Wyen; (a judge of the bench for the county of Charlotte) having acquainted him with my object of requesting his introduction, he unhesitatingly took me in his boat, and repaired along side this armed vessel, where after a guard being placed over the boat to prevent all intercourse between the vessel and



boat, I was admitted on deck and below. Previously, and with much irritation, the commander peremptorily rejected any less demand or explanations relating to the present situation of the vessels in his custody, which I desired to present, make, and require ; but the general observation made was breach of treaties, encroachment of territory, and illicit trade.

I took the liberty to expostulate as to his firing shot, without his jurisdiction, but in vain ; he should fire as often, when and where he pleased ; got so petulant as to be rude, and use illiberal language ; ordered colonel Wyen immediately over the side into his boat, repeatedly. I was admitted to retire with a little more gentleness ; I was glad to withdraw from such imperiousness. Shortly after I got on shore, he dismissed one vessel, and the master of the sloop, and his two people, as per list.

The same afternoon he fell down the tide, and went eastward with the other two.

A true report.

LEWIS FRED. DE LESDERNIER.

*Collector's Office, Port of Passamaquoddy, Sept. 1, 1807.*

SIR,—Since my last of July the 15th, stating the conduct of John Flintoph, lieutenant and commander of his Britannick majesty's armed schooner the *Pogge*, (or *Progui*,) accompanied with sundry depositions, &c. in continuation, I take the liberty to state, for the further information of government, some subsequent occurrences relating to a proceeding from these transactions.

The schooner *Harmony*, of Islesborough, Paoli Hewes, master and owner, which was then captured and carried into St. Johns, New Brunswick, for adjudication, has undergone a rigorous trial, through the court of vice admiralty, is now returned by a decree of restoration, as may be more fully understood by examining the file of documents accompanying this communication, and were deposited at this office with earnest request they should be forthwith forwarded, together with captain P. Hewes' memorial, protest, letter from his counsel, and an estimate of damages for costs and detention, sustained by this defendant and claimant, in the progress of the business, to which he solicits humbly, due attention and relief.

The other vessel, also carried into St. John's with the above, to wit : the schooner Nabby, of Eastport, John Pace, master and owner, burden about twenty-one tons, licensed to carry on the cod fishery, and employed in importing plaister of Paris, by permit to touch and trade, has been condemned at their court, sold at publick vendue for \$60. The owner was so indigent as not to have it in his power to buy her in, and the probability is, she will be burnt—the proceeding in such cases.

I take the liberty to suggest, would it not be judicious, as soon as feasible, to have the boundary line from the mouth of the St. Croix into the bay of Fundy, definitively ascertained, and permanently fixed. Here is a gap, through which all the wild creatures come in and commit depredations on our peaceable and unsuspecting citizens, and alarm us in our most retired moments of rest ; not only threatening destruction, but actually throwing shot among unoffending individuals of every sex and age, passing and repassing in their domestick occupations, within the limits of their own peaceful government. This I experienced among others, and narrowly escaped being sunk in the revenue boat ; a gun was loaded and repeatedly ordered to be fired into the boat, but the dispensation of Divine Providence, I presume, interposed.

I regret much that I have to make such observations, as well as to find that the imperiousness of the British naval commanders is so correspondent on all our extensive sea coast.

With sentiments of highest esteem, I have the honour, &c.

LEWIS FRED. DE LESDERNIER,

Collector of Passamaquoddy.

The Hon. James Madison, Secretary of State.

N. B. See deposition No. 6, formerly forwarded.

No. 7.

*Hampton, July 11, 1807.*

SIR,—Yesterday I applied to the proper authority in this place, for permission to send to commandore Douglass a letter, (which was at the same time submitted to their inspection) the object of which was to obtain a copy of

vice admiral Berkeley's order respecting deserters, and under which the Leopard acted. The result enables me to forward you an exact copy.

I have the honour to be, &c.

JAMES BARRON.

The Hon. James Madison.

*By the Honourable George Cranfield Berkeley,*

VICE ADMIRAL of the white and commander in chief of his majesty's ships and vessels, employed in the river St. Lawrence, along the coast of Nova Scotia, the islands of St. John and cape Breton, the bay of Fundy, and at and about the island of Bermuda, or Somers islands.

Whereas many seamen, subjects of his Britannick majesty, and serving in his majesty's ships and vessels, as per margin,\* while at anchor in the Chesapeake, deserted and entered aboard the United States' frigate the Chesapeake, and openly paraded the streets of Norfolk, in sight of their officers, under the American flag, protected by the magistrates of the town, and the recruiting officer belonging to the above mentioned American frigate; which magistrates and naval officer refused giving them up, although demanded by his Britannick majesty's consul, as well as the captains of the ships from which the said men had deserted; the captains and commanders of his majesty's ships and vessels under my command are therefore hereby required and directed, in case of meeting with the American frigate Chesapeake, at sea, and without the limits of the United States, to show to the captain of her this order, and to require to search his ship for the deserters from the before mentioned ships, and to proceed and search for the same; and if a similar demand should be made by the American, he is permitted to search for deserters from their service, according to the customs and usage of civilized nations, on terms of peace and amity with each other.

\* Belleisle, Bellona, Triumph, Chichester, Halifax, Zenobia, (cutter.)

Given under my hand, at Halifax, Nova Scotia, the first day of June, one thousand eight hundred and seven.

G. C. BERKELEY.

To the respective Captains and Commanders  
of his Majesty's Ships and Vessels on the  
North American Station.

No. 8.

*State of Maryland, Alleghany County, ss.*

UPTON BRUCE, being duly sworn on the Holy Evangelists of Almighty God, deposeth and saith, that among the servants belonging to his father (Norman Bruce) is a female slave named Phillis, a dark mulatto; that at an early age, she became the mother of two children, as was universally admitted, by a white man named Andrew Ware. This fact was never questioned, and Ware himself never, to my knowledge, denied it. The children passed for, and were admitted to be his, and assumed his name; one was a boy, and being myself older than either of them, and brought up as it were in the same family, nothing like doubt rests upon my mind as to his birth and parentage. I am as well assured of it as I can be of any fact of the kind, and no one that I heard ever presumed to suppose otherwise. This boy was raised upon my father's farm, on Pipe creek, at the mills in Frederick county, and being the child of a slave, was reared with the children of other slaves, and stood upon the same footing. His mother is still living; she it was that nursed him in his infancy, and she he considered, acknowledged, and treated as his mother. When I engaged in the management of my father's property, which I did on reaching the years of manhood, this boy was then about twelve or fourteen years old, and he remained along with the other servants until about the age of twenty, when, in consideration of his colour, the regard I had for his father (then dead) and the desire expressed by that father to have these children liberated, this boy was suffered to go at large, he promising to make some compensation, which never has been done. After leaving me, he was working about the country some few years, employed sometimes as a waggoner, driving a team to and from Baltimore, until at length I learned he entered

on board some vessel and had gone to sea : and this life, I had reason to believe, he persevered in, until for some time past hearing nothing of him, I supposed it probable he might be dead. His appearance may have changed since I last knew him ; he then had his growth in height, and was, as near as I could now guess, about five feet, six or seven inches high, of a slender make, a thin foot, and he bent or stood rather back upon his hams ; his face somewhat round, a nose not large, lips not thick, and a chin rather small ; his colour was swarthy or Indian like, remarkably bright though for a mulatto, and would pass for something nearer white ; his hair was of a darkish colour, inclined to curl, which he sometimes kept tied, and which, upon inspection, would show to be different from the hair of a white man, and yet far removed from the wool of an African. He went by the name of Romulus, and is, I should imagine, now about the age of twenty-eight or thirty.

UPTON BRUCE.

Sworn to, and subscribed before me, a justice of the peace for Alleghany county, this eighteenth day of July, eighteen hundred and seven.

THOMAS THISTLE.

*State of Maryland, Alleghany County, to wit :*

I HEREBY certify, that Thomas Thistle, Esquire, before whom the foregoing deposition appears to have been made, and who has thereto subscribed his name, was, at the time of taking and signing the same, one of the state of Maryland's justices of the peace in and for Alleghany county aforesaid, duly commissioned and sworn. And to all his acts as such, due faith and credit is and ought to be given, as well in courts of justice as thereout.

In testimony whereof, I have hereto subscribed my name, and affixed the seal of Alleghany county court, this eighteenth day of July, in the year of our Lord, eighteen hundred and seven, and thirty-second year of the Independence of the United States of America.

JOHN LYNN,  
Clerk of Alleghany County.



*State of Maryland, Alleghany County, ss.*

WILLIAM M'NAIR, being duly sworn on the Holy Evangelists of Almighty God, deposeth and saith, it is about twelve years ago when he was employed as an overseer by Upton Bruce, son of Norman Bruce, who then lived with his father on the farm at Pipe creek, of which he then had the management, his father giving it into his hands, and that among the lads under his direction, was one of a very bright colour, like a very dark white man, and plainly showed the mixture and as descending from white and black parents; that among the female slaves was one called Phillis, who acknowledged this boy as her child, and no doubt could be of the fact, and was so universally known by the whole family and neighbourhood. His mother was a dark mulatto, and his father, as was well understood, was Andrew Ware, who I knew well. This boy was as much a slave to Mr. Bruce as any other he had, and no doubt was suggested to the contrary, that ever I heard, nor was his origin or birth questioned; that he is by guess five feet seven inches high, rather slender made, his hair rather curly, and his age, to the best of this deponent's knowledge, is now about thirty years; that he understood he made some agreement with his master, by which he was suffered to go at large; and the last time this deponent recollects to have seen him was driving a team on the Baltimore road, between six and seven years ago; that he then passed by the name of Romulus, and this deponent understood he afterwards took to the sea.

WILLIAM M'NAIR.

The within sworn to this 17th day of July, 1807, before me one of the justices of the peace for Alleghany county aforesaid.

ANDREW BRUCE.

*State of Maryland, Alleghany County, to wit:*

I HEREBY certify, that Andrew Bruce, Esquire, before whom the depositions hereto annexed appear to have been taken, and who has thereto subscribed his name, was at the time of taking and signing the same, one of the state


of Maryland justices of the peace, in and for Alleghany county aforesaid, duly commissioned and sworn, and to all his acts as such, due faith and credit is and ought to be given as well in courts of justice as thereout.

In testimony whereof, I have hereunto subscribed my name and affixed the seal of Alleghany county court, this eighteenth day of July, in the year of our Lord eighteen hundred and seven, and thirty-second year of the independence of the United States of America.

JOHN LYNN,  
Clerk of Alleghany county.

*State of Maryland, Alleghany County, ss.*

SARAH LEWIS being duly sworn on the Holy Evangelists of Almighty God, deposeth and saith, that she lived many years in Frederick county, of this state; that she lived in the neighbourhood of Norman Bruce's family, was well acquainted there; and that among his servants she well recollects having noticed a very bright mulatto child, approaching nearer to white than any mulatto she ever saw; that at the time she first noticed this child, he was about four or five years old; that his birth or origin she never heard doubted, his being the child of Phillis, a dark mulatto woman, (slave to Norman Bruce, who lived on Pipe creek) by Andrew Ware, a white man; that she knew the said child from that time until he grew up, and reached near the age of twenty; that during that time he remained in the family of the said Bruce as his slave, upon the same footing and treated as his other slaves; that when he grew up he was not a large man, being spare, a round or flattish face; that he must now be about thirty years of age or upwards; that then he passed and was called by the name of Romulus; that his mother had a daughter by the same father, as was acknowledged, and as appeared from her colour and resemblance to her brother. He left the service of his master by his permission or some agreement, I suppose, and as I understood afterwards went to sea.

SARAH <sup>her</sup>  LEWIS.  
<sub>mark.</sub>

Sworn to this 17th day of July, 1807, before me, one of the justices of the peace for Alleghany county aforesaid.

ANDREW BRUCE.

*State of Maryland, Alleghany County, to wit :*

WILLIAM BRUCE being sworn on the Holy Evangelists of Almighty God, deposeth and saith, that about the age of twelve years he went to Frederick county, and lived with his uncle, Norman Bruce, on Pipe creek, for several years, going occasionally to school; that among the other servants, he well remembers a remarkably bright mulatto boy, or he might pass for a very dark, swarthy white one. This boy I always understood was the son of a slave, named Phillis, by a white man called Andrew Ware. I never heard to the contrary, nor can I doubt it, the boy acknowledging this Phillis as his mother, and she receiving him as her child, and it was so admitted and understood by the whole family and neighbourhood. I knew this boy for several years afterwards, and until he grew up. He was in height about five feet five or six inches, his hair dark and somewhat curly, and his make thin. He went by the name of Romulus, and I know of no particular mark to distinguish him except a scar on one of his thumbs, I think occasioned by a bite in some fight he had; and is now I suppose about twenty-eight or thirty years of age. And further this deponent saith not.

WILLIAM BRUCE.

Sworn and subscribed to this 18th day of July, 1807, before

GEORGE RIZER.

*State of Maryland, Alleghany County, to wit :*

I HEREBY certify, that George Rizer, Esquire, before whom the within deposition appears to have been made, and who has subscribed his name thereto, was at the time of so doing one of the state of Maryland justices of the peace, in and for Alleghany county aforesaid, duly commissioned and sworn; and to all his acts as such, due faith

and credit is and ought to be given, as well in courts of justice as thereout.

In testimony whereof, I have hereto subscribed my name, and affixed the seal of Alleghany county court, this 18th day of July, in the year of our Lord eighteen hundred and seven, and thirty-second year of the independence of the United States of America.

JOHN LYNN,  
Clerk of Alleghany County.

THE deposition of Greenbury Griffin, of Talbot county, and the state of Maryland, aged about thirty-seven years, taken before William Lindsey, gentleman, one of the justices of the peace for Queen Ann's county, duly commissioned and qualified as such, this 4th day of August, in the year of our Lord one thousand eight hundred and seven, saith, that John Strahan, or Strawhan, the son of Samuel Strawhan, of Queen Ann's county and state of Maryland, was bound to him to the sea service, about the year eighteen hundred and two, (as the indenture will show, which will be procured as part of this deponent's information) that the said John left the said Greenbury about the year eighteen hundred and four, at Norfolk ; at this time he was sailing with a certain captain John Kemp, from Trinidad to Norfolk aforesaid ; that this deponent has not seen the said John Strahan since ; that the said John Strahan has a light sandy complexion, and looks older than he really is, and a pretty well made man.

Sworn before me the day and year aforesaid.

WM. LINDSEY.

*State of Maryland, Queen Ann's County, to wit :*

I do hereby certify all whom it doth or may concern, that William Lindsey, gentleman, before whom the within deposition appears to have been taken, and who hath subscribed his name, was, at the time of so doing, and still is one of the justices of the peace of the state of Maryland, in and for the county aforesaid, duly commissioned and

sworn, and to all acts done by him as such, due faith and credit is and ought to be given as well in courts of justice as thereout.

In testimony whereof I have hereunto subscribed  
[L. S.] my name, and affixed the publick seal of my said  
office, this sixth day of August, Anno Domini  
eighteen hundred and seven.

SAMUEL T. WRIGHT,  
Clerk of Queen Ann's County Court.

THIS indenture, made the 20th day of March, in the year of our Lord, 1802, witnesseth, that John Strawhan, of Queen Ann's county, aged seventeen years and ten months, hath of his own free and voluntary will, placed and bound himself apprentice unto Greenbury Griffin, of Talbot county, waterman, to learn the said trade, mystery or occupation of a waterman, which he the said Greenbury Griffin now useth, and with him as an apprentice to dwell, continue and serve, from the day of the date hereof, unto the full end and term of three years and two months, from thence next ensuing, and fully to be completed and ended, during all which term of three years and two months, the said apprentice his said master well and faithfully shall serve, his secrets keep, his lawful commands gladly do and obey, hurt to his said master he shall not do, nor wilfully suffer to be done by others, but of the same, to the utmost of his power, shall forthwith give notice to his said master; the goods of his said master he shall not embezzle nor waste, nor them lend, without his consent, to any; at cards, dice, or any other unlawful games he shall not play, taverns or ale houses he shall not frequent, fornication he shall not commit, matrimony he shall not contract; from the service of his said master he shall not at any time depart or absent himself without his said master's leave, but in all things as a good and faithful apprentice, shall and will demean and behave himself towards his said master, and all his, during the said term: and the said master, in consideration of the sum of thirty pounds of lawful money of Maryland, to him in hand paid by said apprentice, in the said trade, mystery or occupation of a waterman, which he now useth, with all things thereunto belonging,



shall and will teach, instruct, or cause to be well and sufficiently taught and instructed, after the best way and manner he can, and shall and will also find and allow unto his said apprentice meat, drink, washing, lodging and wearing apparel, and all other necessities fit and convenient for such an apprentice; and also the said master is to give unto the said apprentice six months schooling, within the said term. In witness whereof, either of the parties have hereunto set their hands the day and year within written.

JOHN STRAWHAN,  
GREENBURY GRIFFIN.

*Witness,*

JOHN MERCHANT,  
THOMAS LAMBDIN,  
JOHN M'DANIEL.

Received 21st March, 1802.

In orphan's court, April 13, 1802. The within indenture was examined and approved.

Certified per

J. PRICE, Register of Wills.

*Talbot County, ss.*

In testimony that the within is truly copied from Liber J. P. No. A. folios 247 and 248, one of the record books belonging to my office, I have hereunto set my hand and the seal of my office affixed, this 21st day of August, Anno Domini 1807.

Test,

JAMES PRICE,  
Register of Wills for Talbot County.

THE deposition of James Roe Pratt, of Queen Ann's county, and state of Maryland, aged about forty-five years, taken before William Lindsey, gentleman, one of the justices of the peace for the said county, duly commissioned and qualified as such, this 4th day of August, in the year eighteen hundred and seven, saith, that he is well acquainted with Samuel Strahan, and his son John Strahan, who

he understood was bound to Greenbury Griffin ; that the said John is a well made man, and has a sandy complexion : and further saith not.

Sworn to before me the day and year aforesaid.

WILLIAM LINDSEY.

THE deposition of John Price, of Kent island in Queen Ann's county, and state of Maryland, aged about forty-one years, taken before William Lindsey, gentleman, one of the justices of the peace for said county, the fourth day of August, in the year of our Lord one thousand eight hundred and seven, saith, that he was well acquainted with Samuel Strahan, late of Queen Ann's county, and his son John Strahan ; that the said John Strahan was a well made young man, and had a sandy complexion ; that this deponent knows nothing of his going to sea, or any thing of him for many years, until the late information of his being pressed into the British service.

Sworn before me the day and year aforesaid.

WM. LINDSEY.

THE deposition of Thomas Lynch, of Queen Ann's county and state of Maryland, aged about forty-seven years, taken before William Lindsey, gentleman, one of the justices of the peace for said county, the fourth day of August, in the year of our Lord one thousand eight hundred and seven, saith, that he is well acquainted with the aforesaid Samuel Strahan, and his son John, who was bound apprentice to the aforesaid Greenbury Griffin, as the father had frequently informed him ; that the said Samuel Strahan lived at the tan-yard of Mr. Tilghman, between Centreville and Queenstown, and that John Strahan, the son of the said Samuel, was born there ; that he was a well made young man when he left his father, and has a sandy complexion, and that he had a pretty good information in the tanning business.

Sworn before me the day and year aforesaid.

WM. LINDSEY.

THE deposition of Samuel Strahan, or Strawhan, as generally called here, of Caroline county, and state of Maryland, aged about fifty-six years, taken before William Lindsey, gentleman, one of the justices of the peace for Queen Ann's county, duly commissioned and qualified as such, this fourth day of August, in the year of our Lord one thousand eight hundred and seven, saith, that he has, or had a son called John Strahan, or Strawhan, as they are called here, born about the fourteenth day of April, seventeen hundred and eighty-four, as well as he recollects; that this son was bound apprentice to a certain Greenbury Griffin, who was then a seaman, and employed in the West India business, as he understood; that he has never seen his said son since, nor heard from him for several years, until the notification from the government of the United States; that this son was pretty well made, and had a light sandy complexion, and that he was born at the tan-yard belonging to a certain William Tilghman, on the publick road from Centreville to Queenstown.

Sworn before me the day and year aforesaid.

WM. LINDSEY.

[Each of the foregoing depositions is accompanied by a similar certificate of office as the first.]

THE following is extracted from the signatures to the original articles of agreement and roll of equipage of the schooner Eagle, Greenbury Griffin, master, bound from Norfolk to St. Bartholomew.

"Aug. 9th....John Strauhwan, Queen's county, Maryland."

I, Benjamin Davis of Westport, in the county of Bristol and commonwealth of Massachusetts, yeoman, being legally qualified to give evidence, do depose and say, that about fourteen or fifteen years ago, William Howland late of said Westport, mariner, deceased, brought to Westport with him a coloured boy, then about six years of age; that

the name of the said boy was Daniel Martin ; that he was bound to the said William, as an apprentice or servant, under the authority of the laws of this commonwealth, by the selectmen and overseers of the poor of said town of Westport, and the indentures were executed at the house of this deponent ; that the said Daniel was afterwards, on his arrival at the age of fourteen years, an apprentice or servant of Nancy Howland, widow and relict of said William Howland, and it is now about seven years since I have seen the said Daniel. He was then of a common stature, straight built, and without any prominent marks by which to describe his person. It was always understood by me that the said Daniel was from some Spanish settlement in America.

BENJAMIN DAVIS.

UNITED STATES OF AMERICA.

*Commonwealth of Massachusetts, Bristol, ss.*

ON this 13th day of July, 1807, before me, Eli Haskell, notary publick, duly elected and qualified, and dwelling in the town of New Bedford, personally appeared Benjamin Davis, Esq. and made solemn oath to the truth of the foregoing statement of affidavit by him subscribed.

In testimony whereof, I have hereunto set my hand  
[L. S.] and notarial seal, in such cases used, the day and  
year first written.

ELI HASKELL, Not. Pub.

I, NANCY HOWLAND, of New Bedford, in the county of Bristol and commonwealth of Massachusetts, widow and relict of William Howland, late of Westport in said county, mariner, do depose and say, that in the month of August, in the year of our Lord seventeen hundred and ninety-two, according to the best of my recollection, my said husband brought with him on a voyage from Buenos Ayres, Daniel Martin, a coloured boy, then in the seventh year of his age, who was bound to him as an apprentice or servant by his mother ; that after the death of my said

husband, and at the arrival of said Daniel at the age of fourteen years, he bound himself by a law of this commonwealth, to me the deponent, and after living with me about one year, left me, and since that time I have never seen or heard from the said Daniel until the application to take this testimony. At the time the said Daniel left me, he was of about a common stature, and I do not now recollect any peculiar marks by which he could be readily described; he was very straight at that time. The indentures by which he was bound, by accident and length of time are mislaid or lost.

NANCY HOWLAND.

UNITED STATES OF AMERICA.

*Commonwealth of Massachusetts, Bristol, ss.*

ON this 13th day of July, 1807, before me Eli Haskell, notary publick, duly elected and qualified, and dwelling in the town of New Bedford, personally appeared Nancy Howland, and made solemn oath, to the truth of the foregoing statement of affidavit, by her subscribed.

In testimony whereof I have hereunto set my hand, and affixed my notarial seal, the day and year  
[L. s.] above written.

ELI HASKELL, Notary Publick.

THE following is extracted from the portage bill of the ship Caledonia, Francis Mahaly, master, who sailed about the 25th of January, 1802, for Canton, and returned about 13th of March, 1803.

“Daniel Martin, seaman, shipped January 24, 1802; discharged March 14th, 1803; time on board, 13 months, 17 days, 12 dollars a month; total wages, 162 dollars, 75 cents.”



No. 9.

*Navy Department, Nov. 12, 1807.*

SIR,—In compliance with your letter of the 9th inst. I have the honour of herewith transmitting to you, papers A, B, and C, which contain all the information that has been communicated to the navy department, in relation “to the outrage committed on the frigate Chesapeake.”

I have the honour to be, &c.

R. SMITH.

To the Hon. Thomas Blount, Chairman  
of the Committee of Congress upon  
Aggressions, &c.

A.

*British Consul's Office. Norfolk, Va. March 6, 1807.*

SIR,—The men named in the margin\* deserted some time since from his majesty's ship *Melampus*, in Hampton Roads, by running away with her gig; and the three first are stated to have entered at the rendezvous, now open here, for the enlistment of seamen in the service of the United States. As the *Melampus* is at present in Hampton Roads, I submit to you, sir, the propriety of your directing these men (should they have entered for your service) to be returned to their duty on board his majesty's ship before mentioned.

I have the honour to remain, &c.

JOHN HAMILTON.

Captain Decatur.

*British Consul's Office. Norfolk, Va. March 7, 1807.*

SIR,—Mr. John Murphy, master of the British merchant ship *Herald*, in this harbour, has represented to me, that John Wilson, a seaman under articles to that ship, and John Murphy (his son) an apprentice, both subjects of his majesty, have deserted and enlisted at the

\* William Ware, Daniel Martin, John Strachan, John Little.

rendezvous, for the naval service of the United States, in this borough, requesting me to use my official interposition with you to obtain, for him, the recovery of the persons before mentioned. It has, therefore, become my duty to solicit that the seamen and apprentice in question, (if they should have entered for the navy of the United States) may be returned to the master of the Herald, and to the performance of their respective engagements on board of that ship.

I have the honour to remain, &c.

JOHN HAMILTON.

Captain Decatur.

*Norfolk, March 8, 1807.*

SIR,—Your communications with captain Decatur have been transmitted to me by that officer.

I must observe, in answer, that John Murphy, appearing to be an apprentice to his commander, has been delivered to the civil authority.

I do not feel myself justified in delivering any men who are not apprentices, and who have voluntarily entered the service of the United States, unless claimed by the magistracy.

I have the honour to be, &c.

A. SINCLAIR.

John Hamilton, Esq. Norfolk.

*British Consul's Office, Norfolk, Va. March 9, 1807.*

SIR,—I have had the honour to receive your letter, dated yesterday, acquainting me, in reply to my communications addressed (through misinformation) to captain Decatur, which he had done me the kindness to transmit to you, that John Murphy, being an apprentice to his commander, had been delivered up to the civil authority; but, that you do not feel yourself justified in delivering up any men who are not thus bound, and who have voluntarily entered the service of the United States, unless claimed by the magistracy.

I can only regret that you do not consider yourself authorized to comply with my request, and I have the honour to remain, &c.

JOHN HAMILTON.

Lieut. Sinclair.

*Navy Yard, Washington, April 7, 1807.*

SIR,—I have the honour to enclose you the result of my inquiries relating to the men mentioned in your letter of yesterday, and have the honour to be, &c.

JAMES BARRON.

The Hon. R. Smith, Secr'y of the Navy.

William Ware, pressed from on board the brig Neptune, captain Crafts, by the British frigate Melampus, in the bay of Biscay, and has served on board the said frigate fifteen months.

William Ware is a native American, born on Pipe creek, Frederick county, state of Maryland, at Bruce's mills, and served his time at said mills. He also lived at Ellicott's mills, near Baltimore, and drove a waggon several years between Hagarstown and Baltimore. He also served eighteen months on board the United States' frigate Chesapeake, under the command of commodore Morris and captain James Barron. He is an Indian looking man.

Daniel Martin was pressed at the same time and place. He is a native of Westport, in Massachusetts, about thirty miles to the eastward of Newport, R. I. served his time out of New York with captain Marrowby, in the Caledonia. Refers to Mr. Benjamin Davis, merchant, and Mr. Benjamin Corce, of Westport. He is a coloured man.

John Strachan, born on the eastern shore of Maryland, Queen Ann's county, between Centreville and Queenstown. Refers to Mr. John Price and ——— Pratt, Esq. on Kent island, who knows his relations. Strachan sailed in the brig Martha Bland, captain Wivill, from Norfolk to Dublin, and from thence to Liverpool. He there left the brig, and shipped on board an English Guineaman. He was pressed on board the Melampus, off cape Finisterre; to better his situation, he consented to enter, being deter-

mined to make his escape when opportunity offered. He served on board the frigate two years. He is a white man, about five feet seven inches high.

William Ware and John Strachan have protections. Daniel Martin says he lost his after leaving the frigate.

John Little, alias Francis, and Ambrose Watts, escaped from the *Melampus* at the same time; known to the above persons to be Americans, but have not been entered by my recruiting officer. William Ware, Daniel Martin, and John Strachan, state, that sometime in February last, there was an entertainment on board the *Melampus*, lying then in Hampton Roads; that while the officers were engaged, and all the ship's boats, except the captain's gig, being hoisted in, themselves and the two other men mentioned, availed themselves of a moment to seize the gig and row off. That, as soon as they had got into the boat, they were hailed, to know what they were going to do; they replied, they were going ashore; a brisk fire of musquetry instantly commenced from the ship; that, in defiance of balls and the hazard of their lives, they continued to pull, and finally effected their escape to land, namely Sewell's point; that, they then carefully hauled up the boat on the beach, rolled up the coat, and placed that and the oars in the boat, gave three cheers, and moved up the country.

*United States' Frigate Chesapeake. Chesapeake Bay, June 23, 1807.*

SIR,—Yesterday, at 6, A. M. the wind became favourable, and knowing your anxiety that the ship should sail with all possible despatch, we weighed from our station in Hampton Roads, and stood to sea. In Lynnhaven bay we passed two British men of war, one of them the *Bellona*, the other the *Melampus*; their colours flying, and their appearance friendly. Some time afterwards, we observed one of the two line of battle ships that lay off cape Henry to get under way, and stand to sea; at this time the wind became light, and it was not until near four in the afternoon that the ship under way came within hail. Cape Henry then bearing N. W. by W. distance three leagues. The communication which appeared to be her comman-

der's object for speaking the Chesapeake, he said he would send on board ; on which I ordered the Chesapeake to be hove to for his convenience. On the arrival of the officer, he presented me with the enclosed paper No. 1, from the captain of the Leopard, and a copy of an order from admiral Berkeley, which another officer afterwards took back, to which I gave the enclosed answer, No. 2, and was waiting for his reply. About this time I observed some appearance of a hostile nature, and said to captain Gordon, that it was possible they were serious, and requested him to have his men sent to their quarters with as little noise as possible, not using those ceremonies which we should have done with an avowed enemy, as I fully supposed their arrangements were more menace than any thing serious. Captain Gordon immediately gave the orders to the officers and men to go to quarters, and have all things in readiness ; but before a match could be lighted, or the quarter bill of any division examined, or the lumber on the gun deck, such as sails, cables, &c. could be cleared, the commander of the Leopard hailed, I could not hear what he said, and was talking to him, as I supposed, when she commenced a heavy fire, which did great execution.

It is distressing to me to acknowledge, that I found from the advantage they had gained over our unprepared and unsuspecting state, did not warrant a longer opposition ; nor should I have exposed this ship and crew to so galling a fire had it not been with a hope of getting the gun deck clear, so as to have made a more formidable defence : consequently our resistance was but feeble. In about twenty minutes after I ordered the colours to be struck, and sent lieutenant Smith on board the Leopard, to inform her commander that I considered the Chesapeake her prize. To this message I received no answer ; the Leopard's boat soon after came on board, and the officer who came in her demanded the muster book. I replied the ship and books were theirs, and if he expected to see the men he must find them. They called on the purser, who delivered his book, and the men were examined, and the three men demanded at Washington, and one man more, were taken away. On their departure from the ship, I wrote the commander of the Leopard the enclosed No. 3, to which I received the answer No. 4. On finding that the men



were his only object, and that he refused to consider the ship his prize, and the officers and crew his prisoners, I called a council of our officers, and requested their opinion relative to the conduct it was now our duty to pursue. The result was that the ship should return to Hampton Roads, and there wait your further orders. Enclosed you have a list of the unfortunate killed and wounded, as also a statement of the damage sustained in the hull, spars, and rigging of the ship.

I have sent this letter to you by captain Gordon, in order that you may have an opportunity of getting such information as you may wish.

With great respect, I have the honour to, be, &c.

JAMES BARRON.

Hon. Robert Smith,

Sec'y of the Navy, Washington.

No. 1.

THE captain of his Britannick majesty's ship Leopard, has the honour to enclose to the captain of the United States' ship Chesapeake, an order from the honourable vice admiral Berkeley, commander in chief of his majesty's ships on the North American station, respecting some deserters from the ships (therein mentioned) under his command, and supposed to be now serving as part of the crew of the Chesapeake.

The captain of the Leopard will not presume to say any thing in addition to what the commander in chief has stated, more than to express a hope, that every circumstance respecting them may be adjusted in a manner that the harmony subsisting between the two countries may remain undisturbed.

H. M. ship Leopard, at sea,  
June 22, 1807.

To the commander of the U. S. ship Chesapeake.

No. 2.

I KNOW of no such men as you describe. The officers that were on the recruiting service for this ship, were particularly instructed by the government, through me

not to enter any deserters from his Britannick majesty's ships ; nor do I know of any being here : I am also instructed never to permit the crew of any ship that I command to be mustered by any other but their own officers. It is my disposition to preserve harmony, and I hope this answer to your despatch will prove satisfactory.

JAMES BARRON.

At sea, June 22, 1807.

To the Commander of his B. M. ship Leopard.

No. 3.

SIR,—I consider the frigate Chesapeake your prize, and am ready to deliver her to any officer authorized to receive her. By the return of the boat I shall expect your answer, and have the honour to be, &c.

JAMES BARRON.

Chesapeake, at sea, June 22, 1807.

To the Commander of his B. M. ship Leopard.

No. 4.

SIR,—Having to the utmost of my power fulfilled the instructions of my commander in chief, I have nothing more to desire, and must in consequence proceed to join the remainder of the squadron, repeating that I am ready to give you every assistance in my power, and do most sincerely deplore that any lives should have been lost in the execution of a service which might have been adjusted more amicably, not only with respect to ourselves, but the nations to which we respectively belong.

I have the honour to be, &c.

S. P. HUMPHREYS.

Leopard, at sea, June 22, 1807.

To the Commander of the U. S. ship Chesapeake.

THE purport of the general order said to be issued by admiral Berkeley was, "that each and every vessel of his squadron should take by force, if they could not be obtained by other means, any British deserters that could be found on board the Chesapeake, and that on the part

of the commanders of the ships of his squadron, a search should be admitted for American deserters."

This, as well as my memory serves me, was the tenour of the paper handed me by the visiting officer of his Britannick majesty's ship the *Leopard*, and stated to have been orders recently issued by admiral Berkeley.

There were several names mentioned in the body of the demand, neither of which were known to us.

*Return of Dead and Wounded on board the Frigate Chesapeake, Commodore James Barron, June 23, 1807.*

Killed.

John Lawrence,  
James Arnold,  
John Shukly.

Badly wounded.

John Haden,  
Cotton Brown,  
John Parker,  
George Percival,  
Peter Simmons,  
Robert McDonald,  
Francis Cownsdon,  
James Eppes.

Slightly wounded.

Commodore J. Barron,  
Midshipman J. Broom,  
Peterson Ellison,  
William Hendricks,  
Thomas Short,  
William Moody,  
David Creighton,  
John Marter,  
Emanuel Fernansly,  
John Wilson.

I. G. T. HUNT,

Surgeon to the *Chesapeake*.

Captain Charles Gordon.

AGREEABLY to your requisition of this date to us directed,

We have taken a strict and careful survey on the hull of the late United States' frigate *Chesapeake*, and find it as follows:

Twenty-two round shot in her hull, that is to say,

Twenty-one on the starboard, and one on the larboard side.

Given under our hands on board the late United States' frigate *Chesapeake*, June 23, 1807.

BEN. SMITH, Lieut.

SIDNEY SMITH, Lieut.

SAMUEL BROOKER, Master.

Captain Charles Gordon.

AGREEABLY to your requisition of this date to us directed,

We have taken a strict and careful survey on the masts and standing rigging of the late United States' frigate Chesapeake, and find them in the following state :

The fore and main masts are incapable of being made sea worthy ; the mizzen mast badly wounded, but not incapable of being repaired on shore. Three starboard and two larboard main shrouds, two starboard fore shrouds, two starboard mizzen shrouds, main topmast stay, cap bob-stay, and starboard main lift cut away ; likewise the middle staysail stay.

Given under our hands on board the late United States' frigate Chesapeake, June 23, 1807.

BEN. SMITH, 1st Lieut.

SIDNEY SMITH, 5th Lieut.

SAMUEL BROOKER, Master.

Captain Charles Gordon.

AGREEABLY to your requisition of this date to us directed, we have taken a strict and careful survey on the sails, spare spars, and boats of the late United States' frigate Chesapeake, and find them in the following state :

In the foresail, four round shot holes, twelve grape shot holes, and the starboard leach cut away. In the main sail, three round shot holes, full of grape ditto, and the foot rope cut away. Main topsail, one round shot hole. Fore topmast staysail much injured by grape shot. In the spare fore topmast, two twelve pound shot holes, which have rendered it entirely unfit for service. Main skysail mast cut in two.

The second cutter much injured by a shot hole, which went through and through her, cut both of her masts and three of her oars in two.

First cutter slightly injured.

Given under our hands, on board the late United States' frigate Chesapeake, June 23, 1807.

BEN. SMITH, Lieut.

SIDNEY SMITH, Lieut.

SAMUEL B. BROOKE, Master.

Capt. Charles Gordon.

*Frigate Chesapeake, Hampton Roads, June 29, 1807.*

SIR,—Enclosed I have the honour to forward you an exact copy of this ship's log book, and have the honour to be, sir, with great respect, &c.

JAMES BARRON.

Mon. R. Smith,  
Secretary of the Navy.

The following is the copy above alluded to.

“MONDAY, June 22d. Commences with light breezes from the s. and w. and clear weather. At seven A. M. hoisted out the jolly boat and hoisted in the second cutter; run the jolly boat up astern. At quarter past seven weighed anchor, made sail with a pleasant breeze from w. s. w. and stood out for sea. At nine passed two of his Britannick majesty's ships at anchor; stowed the larboard anchor, and secured the boats. At meridian the light house on Cape Henry bore s. w. by s. People employed clearing ship for sea. This day ends at meridian and contains seventeen hours.

Tuesday, 23d. Commences with light breezes from the s. and w. and clear weather; a ship in sight, apparently standing for us. At one P. M. the wind hauled to the N. and E. in studding sails, and hauled upon a wind, and at half past three the ship came up with us; backed the main topsail and spoke her; was boarded by her. She proved to be the British ship Leopard of 50 guns. They came on board to demand some men who had deserted from the English navy. The commodore refusing to give them up, the boat returned. They ranged along side and commenced a heavy fire. We being unprepared and the ship much lumbered, it was impossible to clear ship for action in proper time, though every possible exertion was made, and not suspecting an enemy so near, did not begin to clear the deck until the enemy had commenced firing. In about 30 minutes, after receiving much damage in our hull, rigging, and spars, and having three men killed, to wit, Joseph Arnold, Peter Shakeley, and John Lawrence; and 16 wounded, to wit, commodore Barron, Mr. Broom.



John Hadden, Cotton Brown, Peter Ellison, John Parker, Geo. Percival, Peter Summers, Wm. Hendrick, R. Macdonald, Francis Conhoven, Thomas Short, Wm. Moody, David Creighton, John Martyr, James Eppes, Emanuel Hendricks, John Wilson, Wm. Warren, and John Bates, and having one gun ready, fired and hauled down the colours. The Leopard ceased firing and sent her boat on board, mustered the ship's company. At sun down they left the ship, taking with them four men, viz. John Strawn, Daniel Martin, Wm. Ware, and John Wilson, who had deserted from their service; at the same time lieutenant Allen went on board and returned at eight o'clock. The Leopard left us and stood in.

We then made sail and stood in shore, having three and half feet water in our hold. Crew employed in pumping and working ship in for Hampton Roads, got the anchors clear for coming to. At six A. M. took the third reef in the main topsail, and set top-gallant-sails. Held a survey on the masts and rigging. At eight Cape Henry bore s. w. distant four or five miles: employed working ship in for Hampton Roads. At half past meridian came to with the starboard anchor in seven fathoms water, in Hampton Roads.

## B.

*Norfolk, June 29, 1807.*

SIR,—The enclosed papers, No. 1 and 2, you will perceive, are from the committee of the people of Norfolk, calling on me for aid, with the gun-boats under my command, to prevent an invasion, which has been threatened by the commanding officer of the British squadron, lying in the vicinity of this place. You will see, sir, by No. 3, my reply. The British commander has also threatened that he will again take possession of the Chesapeake. I have it also from unquestionable authority, that they have asserted positively, that in case the President should issue a similar order to that issued respecting the *Leander*, they will consider it as an act of hostility, and will commence hostile operations immediately. Under an impression that they will do as they say, I hope and feel satisfied, my pre-

paring to act on the defensive, will meet the approbation of the President and yourself. If, however, it should be thought I have been precipitate, I beg it may be attributed to my extreme desire not to omit any service I might render my country. The four old gun-boats are all that can be immediately equipped for service: these we commenced fitting this morning. They are now entirely ready for the reception of the men, who, I trust, will come forward in sufficient numbers to authorize our proceeding to Hampton to-morrow. Sir, as I have no doubt, from the threats the British have made, we shall have to fight, I shall not leave this until the boats are manned to my satisfaction; to do which it will take one hundred and sixty men. The British, if they attempt any thing against us, it will be in the night, with row boats, or other boats that they may press. The row boats belonging to their squadron are capable of carrying 500 men with ease. This number, if we are full manned, I feel confident of being able to oppose. I beg you, sir, however, to bear in mind that our crews will be composed of volunteers who, notwithstanding their great zeal, will not possess all the skill we could wish. I should, however, be mortified, if it were understood, I wished to convey an idea, that as much should not be expected from us as ought to be expected from any four gun-boats. More, I hope, will not be expected.

The new boats at this place can be in readiness in a short time, should you choose to order it. Although, sir, I shall always be ready to serve my country in any way I can be useful, I hope, sir, if the frigates are to be fitted out, I shall not be continued in gun-boats. The gentlemen, who have volunteered their services, have agreed to stay with us only until such time as we shall hear from Washington what steps will be taken, which will be on Thursday.

I have the honour to be, &c.

STEPHEN DECATUR, JUN.

The Hon. Robert Smith,  
Secretary of the Navy.

## No. 1.

*Norfolk, June 28, 1807.*

SIR,—We take pleasure in presenting to you the resolution of the committee appointed by the inhabitants of this borough, now enclosed. Requesting your answer to the resolution, we are, with the highest respect, &c.

THOMAS BLANCHARD,  
SETH FOSTER,  
J. W. MURDAUGH.

Captain Decatur.

## No. 2.

*Norfolk, June 28, 1807.*

WHEREAS the committee have received information, from various sources, that the commanders of the British ships of war have menaced the inhabitants of Hampton with an invasion, for the purpose of procuring water. It is resolved, that application be made to captain Stephen Decatur, commander of the United States' naval force at this place, to equip the gun-boats, by availing himself of the services of the captains and seamen who have proffered them, to proceed to Hampton, or as near it as he may judge proper, to co-operate with the people in their defence, in any manner he may judge most expedient, or to act as circumstances may dictate in preventing the execution of their threat.

Resolved, that Thomas Blanchard, Seth Foster, and J. W. Murdaugh, be a committee to wait on captain Decatur with this application.

Extract from the minutes.

THEO. ARMISTEAD,  
Secretary of the Committee.

## No. 3.

*Norfolk, June 28, 1807.*

GENTLEMEN,—I have received your letter of this day, enclosing the resolutions of the committee, calling on me.

as the commander of the naval force at this place, to equip and resist, with the gun-boats under my command, a threatened invasion of the territory of the United States by the British now lying in the waters of the Chesapeake.

Having the fullest confidence that the committee would not have made a request of this nature, unless they were fully impressed with a belief that the hostility spoken of was certainly intended, I feel it my duty to repel, as far as I have power, any such attempt that may be made ; for which purpose, if a sufficient number of volunteers can be procured, I will repair to Hampton with all possible expedition.

I have the honour to be, &c.

STEPHEN DECATUR.

To THOMAS BLANCHARD,	} Esquires.
SETH FOSTER,	
J. W. MURDAUGH,	

*Extract of a Letter from Commodore Stephen Decatur, to the Secretary of the Navy. United States' Frigate Chesapeake, July 4, 1807.*

WHEN I was honoured with your orders, I was on board the gun-boats ; four of them are only wanting men to place them in a complete state of readiness for immediate service. The Chesapeake, when I took command of her, had been brought up into the bite of Crany Island, in consequence of the threats of the British. Their movements, sir, are extremely suspicious. Since the affair of the Leopard and Chesapeake, they have been at anchor inside of the capes, and have brought to by firing at, every vessel that has passed in or out of the capes. They have sent many insolent and menacing messages to Norfolk : such as, if the people did not supply them with articles they might want, they would come up and retake the Chesapeake, and cut out the French frigate Sybell. This, sir, from their movements, it is my opinion they intend to attempt. Yesterday afternoon the four British ships came in and anchored in Hampton Roads ; this morning they sent their tenders, and sounded quite through the narrows. The present situation of the Chesapeake and Sybell is such, in consequence of the narrowness of the channel, that if an attempt was made on either of them by the ships, they

could not render to each other that support which would be necessary : in consequence of this, I have determined to move up nearer the town, where we shall be able to take such position as will enable us, with the assistance of the fort, to make such a defence, as may render abortive any attempt that may be made upon us.

I have just learned that the depth of the water from Hampton Roads to Norfolk will admit of three of the British squadron coming up.

*Copy of a Letter from Commodore Stephen Decatur, jun. to the Secretary of the Navy. U. S. Frigate Chesapeake, July 4, 1807.*

SIR,—I have just been informed by Dr. Bullus, who has returned from Norfolk, that commodore Douglass, commander of the British squadron, has written to the inhabitants of Norfolk, that in consequence of some resolves passed by a committee selected from the inhabitants of Norfolk and its vicinity, he has anchored his ships in such a position as to prevent any vessels going to, or coming from Norfolk—which he is determined to do if those resolves are not rescinded.

I have the honour to be, &c. &c.

STEPHEN DECATUR, JUN.

*Extract of a Letter from Commodore Decatur to the Secretary of the Navy. U. States' Frigate Chesapeake, Norfolk, July 8, 1807.*

“THE menacing letter written by commodore Douglass to the mayor of Norfolk, he has since stated, verbally, contained no menace; and he has further said, that he has no hostile intention against Norfolk. However, sir, you will see, by the enclosed affidavit, that his actions do not comport with his words. He has lightened his ships since the pacific message he sent to the mayor, and the day before yesterday he fired many shot at an Eastern Shore man. If he makes an attempt to come up, with the force they speak of, I think I am not over sanguine when I say, I believe they will not all go down again.”



*Extract of a Letter from Commodore Decatur to the Secretary of the Navy. U. States' Frigate Chesapeake, Norfolk, July 12, 1807.*

“THE British squadron, lying in Hampton Roads, bring to every vessel passing to this place, but have not detained any. The Bellona and Leopard continue in their former situation in the Roads : the Triumph and Melampus have weighed, and are now at anchor in Lynnhaven bay.”

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES RELATIVE  
TO EX-BASHAW OF TRIPOLI. NOV. 11, 1807.

[See Vol. x. p. 496.]

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO THE  
HOUSE OF REPRESENTATIVES. NOV. 13, 1807.

ACCORDING to the request expressed in your resolution of the eighteenth instant, I now transmit a copy of my proclamation interdicting our harbours and waters to British armed vessels, and forbidding intercourse with them, referred to in my message of the 27th of October last.

TH: JEFFERSON.

*To all to whom these presents shall come, greeting :*

I CERTIFY, That the writing contained on the annexed eight pages, is a true copy of a proclamation issued by the President of the United States, duly compared with the original remaining in this department.

In faith whereof, I, James Madison, Secretary for the department of State of the United States of America.

have signed these presents, and caused the seal of my office to be affixed hereto, at the city of Washington, this nineteenth day of November, A. D. one thousand eight hundred and seven, and in the thirty-second year of the Independence of the United States.

JAMES MADISON.

BY THOMAS JEFFERSON,

PRESIDENT OF THE UNITED STATES OF AMERICA .

A PROCLAMATION.

DURING the wars which, for some time, have unhappily prevailed among the powers of Europe, the United States of America, firm in their principles of peace, have endeavoured by justice, by a regular discharge of all their national and social duties, and by every friendly office their situation has admitted, to maintain, with all the belligerents, their accustomed relations of friendship, hospitality, and commercial intercourse. Taking no part in the questions which animate these powers against each other, nor permitting themselves to entertain a wish but for the restoration of general peace, they have observed with good faith the neutrality they assumed, and they believe that no instance of a departure from its duties can be justly imputed to them by any nation. A free use of their harbours and waters, the means of refitting and of refreshment, of succour to their sick and suffering, have, at all times, and on equal principles, been extended to all, and this too, amidst a constant recurrence of acts of insubordination to the laws, of violence to the persons and of trespasses on the property of our citizens, committed by officers of one of the belligerent parties received among us. In truth, these abuses of the laws of hospitality have, with few exceptions, become habitual to the commanders of the British armed vessels hovering on our coasts, and frequenting our harbours. They have been the subject of repeated representations to their government. Assurances have been given that proper orders should restrain them within the limits of the rights, and of the respect due to a friendly nation ; but these orders and assurances have been without effect ; no instance of punishment for past wrongs has taken place. At length a deed, transcending

all we have hitherto seen or suffered, brings the publick sensibility to a serious crisis, and our forbearance to a necessary pause. A frigate of the United States, trusting to a state of peace, and leaving her harbour on a distant service, has been surprised and attacked by a British vessel of superior force, one of a squadron then lying in our waters and covering the transaction, and has been disabled from service, with the loss of a number of men killed and wounded. This enormity was not only without provocation or justifiable cause, but was committed with the avowed purpose of taking by force, from a ship of war of the United States, a part of her crew; and that no circumstance might be wanting to mark its character, it had been previously ascertained that the seamen demanded were native citizens of the United States. Having effected her purpose, she returned to anchor with her squadron within our jurisdiction. Hospitality under such circumstances ceases to be a duty: and a continuance of it, with such uncontrolled abuses, would tend only by multiplying injuries and irritations to bring on a rupture between the two nations. This extreme resort is equally opposed to the interests of both, as it is to assurances of the most friendly dispositions on the part of the British government, in the midst of which this outrage has been committed. In this light the subject cannot but present itself to that government, and strengthen the motives to an honourable reparation of the wrong which has been done, and to that effectual control of its naval commanders, which alone can justify the government of the United States, in the exercise of those hospitalities it is now constrained to discontinue.

In consideration of these circumstances and of the right of every nation to regulate its own police, to provide for its peace and for the safety of its citizens, and consequently to refuse the admission of armed vessels into its harbours or waters, either in such numbers or of such descriptions, as are inconsistent with these, or with the maintenance of the authority of the laws, I have thought proper, in pursuance of the authorities specially given by law, to issue this my proclamation, hereby requiring all armed vessels bearing commissions under the government of Great Britain, now within the harbours or waters of the United States, immediately and without any delay to depart from the same.

and interdicting the entrance of all the said harbours and waters to the said armed vessels, and to all others bearing commissions under the authority of the British government.

And if the said vessels, or any of them, shall fail to depart as aforesaid, or if they or any others, so interdicted, shall hereafter enter the harbours or waters aforesaid, I do in that case forbid all intercourse with them or any of them, their officers or crews, and do prohibit all supplies and aid from being furnished to them or any of them.

And I do declare and make known, that if any person, from or within the jurisdictional limits of the United States, shall afford any aid to any such vessel contrary to the prohibition contained in this proclamation, either in repairing any such vessel, or in furnishing her, her officers or crew, with supplies of any kind, or in any manner whatsoever, or if any pilot shall assist in navigating any of the said armed vessels, unless it be for the purpose of carrying them, in the first instance, beyond the limits and jurisdiction of the United States, or unless it be in the case of a vessel forced by distress, or charged with publick despatches as herein after provided for, such person or persons shall, on conviction, suffer all the pains and penalties by the laws provided for such offences.

And I do hereby enjoin and require all persons bearing office, civil or military, within or under the authority of the United States, and all others, citizens or inhabitants thereof, or being within the same, with vigilance and promptitude to exert their respective authorities, and to be aiding and assisting to the carrying this proclamation, and every part thereof, into full effect.

Provided nevertheless, that if any such vessel shall be forced into the harbours or waters of the United States by distress, by the dangers of the sea, or by the pursuit of an enemy, or shall enter them charged with despatches or business from their government, or shall be a publick packet for the conveyance of letters and despatches, the commanding officer immediately reporting his vessel to the collector of the district, stating the object or cause of entering the said harbours or waters, and conforming himself to the regulations in that case prescribed under the authority of the laws, shall be allowed the benefit of such regulations respecting repairs, supplies, stay, intercourse

and departure, as shall be permitted under the same authority.

In testimony whereof, I have caused the seal of the  
[L. s.] United States to be affixed to these presents and signed the same.

Given at the city of Washington the 2d day of July, in the year of our Lord 1807, and of the sovereignty and independence of the United States the thirty-first.

TH: JEFFERSON.

By the President,

JAMES MADISON,  
Secretary of State.

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES RELATIVE  
TO CHESAPEAKE AND LEOPARD. DEC. 7, 1807.

[See Vol. x. p. 502.]

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## REPORT

ON A LETTER FROM WILLIAM EATON TO THE SPEAKER OF  
THE HOUSE OF REPRESENTATIVES OF THE UNITED  
STATES. DECEMBER 18, 1807.

THE committee to whom was referred the letter of William Eaton, communicating a memorial from Hamet Caramalli, ex-bashaw of Tripoli, report—

That the memorial is dated "Syracuse, the 18th of February, 1807," in which the memorialist states that he has sacrificed all his means of support, and exposed his life in the service of the United States; that he is in exilement at Syracuse, far from his family, and deprived of every convenience of life; that he had hoped to be recompensed by an equivalent to his usefulness, and to his sacri-



fices ; that the promises made to him admitted no suspicion, that so much time would have elapsed, and that hope not yet realised. He complains of the delay in affording him relief, and appeals to the magnanimity of Congress, to restore to him his family, and to grant him a competent support.

The committee having examined the subject, find the following to be a brief statement of the facts, relative to the situation of the memorialist, and his claim to further remuneration from this government.

The memorialist, Hamet Caramalli, being driven from the throne of Tripoli, by his younger brother, the present reigning bashaw ; having made various unsuccessful efforts to regain it, and still meditating the recovery of his inheritance—in 1804, while the United States were prosecuting a war with that state, it was represented to the Executive, that a co-operation with our forces was desirable to the ex-bashaw ; but in order to enable him to carry on his operations with greater effect, it would be necessary to furnish him with arms, ammunition and some money.

Considering that concerted operations with him against the reigning bashaw, who was then his, as well as our common enemy, was justifiable, and might be productive of beneficial effects to both, without binding this government to pursue the war any longer than to effect the objects for which it was commenced, the Executive authorized commodore Barron, then proceeding with his squadron to the Mediterranean, to enter into such an understanding with the ex-bashaw, if he should deem it useful to co-operate with him, and in that case, to furnish him with arms, ammunition and money to a moderate extent.

It appears to the committee that commodore Barron perfectly understood his instructions to go no further than to authorize a co-operation with the ex-bashaw, leaving the agents of our government at full liberty to conclude a peace with the regency of Tripoli, whenever such terms should be offered by that power, as our agent, authorized to negotiate a treaty and conclude such peace, should think proper to accept of ; and the commodore's letter to general Eaton, who joined the ex-bashaw, in his operations by land, appears to be conformable to that opinion of his powers.

That when the ex-bashaw, with the aid of general Eaton and a number of other Americans, and with the assistance of the arms and other supplies, furnished by commodore Barron, had recovered the city of Derne, and the possession of that province, from which he had formerly been driven, overtures of peace were made by the reigning bashaw, to our agent, Mr. Lear, and a peace concluded with that regency.

That in one of the articles of this treaty it is stipulated, that the Americans will use all the means in their power to persuade the ex-bashaw to withdraw from the territory of the reigning bashaw, but not employ force, or improper means to effect it; and in case he should withdraw himself as aforesaid, the reigning bashaw engaged to deliver up to him, his wife and children. It appears however to the committee, that the influence and resources of the ex-bashaw were so small, although in the possession of that province, that he himself considered it necessary to his own safety, that he should withdraw, and therefore this circumstance can form no ground of a claim on this government. And that the stipulation in the treaty, on the part of the reigning bashaw, to deliver up his wife and children, in case he should so withdraw himself, was not in consequence of any previous engagement on the part of this government, to effect that object.

That the ex-bashaw left Derne in June, and arrived at Syracuse in July, 1805, and that he still resides at that place, with a few of his followers, or suite, which are said to be about 12 or 15 in number.

That from the 12th of July, 1805, to the 12th of May, 1807, he received from Mr. Dyson, navy agent, on an order issued by commodore Rodgers, \$200 per month, amounting to \$4,400, and that in the month of May, or June last, the further sum of \$2,400, appropriated by an act passed 21st April, 1806, was also paid to him, amounting in the whole to \$6,800, by which it will be seen, that at the date of his memorial, he was receiving, regularly, \$200 per month, and that since its date he has also received \$2,400.

That although the wife and children of the ex-bashaw were not delivered up on the 3d of June last, nor any provision made by the reigning bashaw, for his support, yet he had given assurances to the American consul at Tripo-

li, that the wife and children would be delivered at any time a conveyance could be procured for them, and that expectations were entertained by the consul that the ruling bashaw would make some pecuniary arrangements for his brother and the other exiles.

From this view of the subject, although the United States are not under any obligation to support the ex-bashaw, or to have given him what has already been bestowed, yet as an act of generosity on the part of government, towards an individual who may have rendered it service, and whose expectations may have been improperly raised, in relation to the transaction, which is the cause of the present application; the committee are of opinion, that a sum, in addition to what has already been paid to him, should be placed in the power of the Executive, to be paid over, under his direction, to the said ex-bashaw; but with the understanding, that he is not to expect any further pecuniary aid from this government.

The committee, therefore, submit the following resolution for the consideration of the house.

Resolved, 'That the sum of \_\_\_\_\_ dollars be, and the same is hereby appropriated, out of any money in the treasury, not otherwise appropriated, to be paid, under the direction of the President of the United States, to Hamet Caramalli, ex-bashaw of Tripoli.

*Department of State, Nov. 11, 1807.*

SIR,—In answer to your letter of the 10th instant, making certain inquiries relative to the ex-bashaw of Tripoli, I have the honour to observe, that the execution of the act of Congress appropriating \$2,400 to his immediate relief, having taken place through the navy department, the information requested on that point, does not belong to this.

On the other points, I have to state that the wife and children of the ex-bashaw had not been delivered up on 3d of June last; but the reigning bashaw had given assurances to the American consul at Tripoli, that it would be done at any time when a conveyance should be procured for them; and expectations were entertained by the consul that some pecuniary arrangement would also be made,

by the reigning bashaw, for the exiles. To what precise or probable amount is not explained.

I have the honour to be, &c.

JAMES MADISON.

The Hon. David Thomas,  
Chairman of a Committee of Congress.

*Navy Department, Nov. 16, 1807.*

SIR,—I have had the honour of receiving your letter of the 13th instant.

The sum of \$2,400, appropriated by act of Congress of 21st April, 1806, for the relief of Hamet Caramalli, ex-bashaw of Tripoli, was remitted to the officer commanding the naval forces in the Mediterranean, in June, 1806; and although the navy department does not possess any official information as to the fact of this money having been paid over to Hamet Caramalli, yet there exists good reason to presume that it was paid to him; that in May, 1807, one thousand dollars, part of the two thousand four hundred, was paid to him; and that in June, 1807, the balance, viz. one thousand four hundred, was paid to him.

The commanding officer to whom the remittance was made, has lately arrived in the country, and will shortly exhibit his accounts for settlement, when full information will be afforded upon the subject of these payments.

I have the honour to be, &c.

R. SMITH.

Hon. David Thomas, Chairman of the  
Committee upon Hamet Caramalli's  
Petition.

SIR,—My statement to the speaker of the House of Representatives, Feb. 20, 1804, and to the Secretary of the Navy of August 1805, are fair *indices* to all our engagements with Hamet Caramalli, ex-bashaw of Tripoli, and to the result of the measures concerted with him. Much document concerning this subject has been exhibited, both to the committee of the Senate and to that of the House of Representatives, who had it under consideration during the first session of the ninth Congress, to which recurrence may now be had for information.

The general instructions from the Secretary of the Navy of 1804-5, to the commander in chief of the expedition, commodore Barron, and the instructions of the Secretary of State of June 6th, 1804, and April 20th, 1805, to the commissioner Mr. Lear, show the views and expectations of government both in regard to the operations of the force provided for the Mediterranean, and to the terms on which peace might be concluded. It will appear, on examination, that in both, government have been disappointed. To those exhibits, and the comments of the committee of the Senate thereon, in their report, it seems, nothing need be added to enable your committee to form a clear opinion on the subject referred to them.

The following copy of an order from commodore Rodgers, and the statement annexed, show the provisions passed to the bashaw, since our having removed him from the province of Derne, in his kingdom.

*United States' Ship Constitution. Syracuse, July 12, 1805.*

SIR,—For the subsistence of Hamet bashaw, you will be pleased to pay him two hundred Spanish dollars per month, on account of the United States, giving him one month in advance.

This order to continue in force until the pleasure of the government of the United States shall be made known to you through a regular channel; observing at the same time that, on his leaving this island without my consent, that you are to consider this obligation as no longer obliging you to make him any further advances on account of the United States.

I have the honour to be, &c.

JOHN RODGERS.

George Dyson, Esq. U. S. Navy Agent, Syracuse.

*Washington City, Nov. 12, 1807.*

I certify the above to be a true copy from the original.

GEORGE DYSON.

On the within order Mr. Dyson paid him up to the 12th May, 1807, \$4,400; and in the end of May, or beginning of June, of the same year, the further sum of \$2,400 agreeably to special appropriation, amounting to \$6,800.



The number of the bashaw's suite, on arrival at Syracuse, was about forty attached to his person. That number is reduced, by death and desertion, to about twelve or fifteen.

The moveable property, consisting of horses, camels, arms and clothing, which he abandoned at Derne, did not exceed \$50,000 ; but when drawn from Upper Egypt he was at the head of the Mameluke Arabs, as general in chief, in alliance with Elfi bey. He cannot return thither.

The sum of thirty or forty thousand dollars might be considered a generous provision for his future subsistence ; but to enable him to enjoy it, he should be removed to some part of the Turkish dominions.

Very respectfully, sir,

WILLIAM EATON.

Hon. Gen. Thomas, Chairman of the Committee  
on the Memorial of Hamet Caramalli.

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS. DECEMBER 18, 1807.

### No. I.

THE communications now made, showing the great and increasing dangers with which our vessels, our seamen, and merchandise, are threatened on the high seas and elsewhere, from the belligerent powers of Europe, and it being of the greatest importance to keep in safety these essential resources, I deem it my duty to recommend the subject to the consideration of Congress, who will doubtless perceive all the advantages which may be expected from an inhibition of the departure of our vessels from the ports of the United States.

Their wisdom will also see the necessity of making every preparation for whatever events may grow out of the present crisis.

TH: JEFFERSON.

## No. II.

*Extract of a Letter from the Grand Judge, Minister of Justice, to the Imperial Attorney General for the Council of Prizes.*

TRANSLATION.

*Paris, Sept. 18, 1807.*

SIR,—I have submitted to his majesty the emperor and king the doubts raised by his excellency the minister of marine and colonies, on the extent of certain dispositions of the imperial decree of the 21st November, 1806, which has declared the British isles in a state of blockade. The following are his majesty's intentions on the points in question :

1st. May vessels of war, by virtue of the imperial decree of the 21st November last, seize on board neutral vessels either English property, or even all merchandise proceeding from the English manufactories or territory ?

*Answer.* His majesty has intimated that as he did not think proper to express any exception in his decree, there is no ground for making any in its execution, in relation to any whomsoever, (à l'égard de qui que ce peut être.)

2. His majesty has postponed a decision on the question whether armed French vessels ought to capture neutral vessels bound to or from England, even when they have no English merchandise on board.

REGNIER.

## No. III.

From the London Gazette, October 17.

## BY THE KING, A PROCLAMATION,

FOR RECALLING AND PROHIBITING BRITISH SEAMEN FROM SERVING  
FOREIGN PRINCES AND STATES.

GEORGE R.

WHEREAS it hath been represented unto us, that great numbers of mariners and seafaring men, our natural born subjects, have been enticed to enter into the service of foreign states, and are now actually serving as well on

board the ships of war belonging to the said foreign states, as on board the merchant vessels belonging to their subjects, notwithstanding our former proclamation recalling them, contrary to the duty and allegiance which our said subjects owe unto us, and to the great disservice of their native country; we have therefore thought it necessary at the present moment, when our kingdom is menaced and endangered, and when the maritime rights on which its power and greatness do mainly depend, are disputed and called in question, to publish by and with the advice of our privy council, this our royal proclamation: We do hereby strictly charge and command all masters of ships, pilots, mariners, shipwrights, and other seafaring men, being our natural born subjects, who may have been enticed into the pay or service of any foreign state, or do serve in any foreign ship or vessel, that forthwith they and every of them do (according to their bounden duty and allegiance, and in consideration that their native country hath need of all their services) withdraw themselves, and depart from, and quit such foreign service, and do return home to their native country; or do enter on board such of our ships of war as they may chance to fall in with, either on the high seas, or in any rivers, waters, havens, roads, ports, or places whatsoever or wheresoever.

And, for the better execution of the purposes of this our royal proclamation, we do authorize and command all captains, masters, and others, commanding our ships and vessels of war, to stop and make stay of all and every such person or persons (being our natural born subjects) as shall endeavour to transport or enter themselves into the service of any foreign state, contrary to the intent and command of this our royal proclamation, and to seize upon, take, and bring away all such persons as aforesaid, who shall be found to be employed or serving in any foreign merchant ship or vessel as aforesaid—but we do strictly enjoin all such our captains, masters and others, that they do permit no man to go on board such ships and vessels belonging to states at amity with us, for the purpose of so seizing upon, taking, and bringing away such persons aforesaid, for whose discreet and orderly demeanour the said captains cannot answer; and that they do take especial care that no unnecessary violence be done

or offered to the vessel, or to the remainder of the crew, from out of which such persons shall be taken.

And in case of their receiving information of any such person or persons being employed, or serving on board of any ship of war belonging to such foreign state at amity with us, we do authorize and command our captains, masters, and others, commanding our ships of war, to require of the captain or commander of such foreign ship of war, that he do forthwith release and discharge such person or persons, being our natural born subject or subjects; and if such release and discharge shall be refused, then to transmit information of such refusal to the commander in chief of the squadron under whose orders such captain or commander shall be then serving; which information the said commander in chief is hereby strictly directed and enjoined to transmit, with the least possible delay, to our minister resident residing at the seat of government of that state to which the said foreign ship of war shall belong, or to our lord high admiral, or lords commissioners of the admiralty for the time being, in order that we, being apprized of such proceeding, may forthwith direct the necessary steps to be taken for obtaining redress from the government to which such foreign ship of war shall belong, for the injury done to us by the unwarranted detention of our natural born subjects in the service of a foreign state.

And whereas it has been further represented unto us, that divers mariners and seafaring men, our natural born subjects, have been induced to accept letters of naturalization, or certificates of citizenship from foreign states; and have been taught to believe that, by such letters or certificates, they are discharged from that duty of allegiance which, as our natural born subjects, they owe to us: now we do hereby warn all such mariners, seafaring men, and others, our natural born subjects, that no such letters of naturalization, or certificates of citizenship, do, or can, in any manner, divest our natural born subjects of the allegiance, or in any degree alter the duty which they owe to us their lawful sovereign. But, in consideration of the error into which such mariners and seafaring men as aforesaid may have been led, we do hereby publish and declare our free pardon to all such our subjects, who, repenting of the delusion under which they have acted, shall immediately upon knowledge of this our royal proclama-

tion withdraw themselves from foreign service, and return to their allegiance to us ; and we do declare that all such our subjects who shall continue in the service of foreign states, in disregard and contempt of this our royal proclamation, will not only incur our just displeasure, but are liable to be proceeded against for such contempt, and shall be proceeded against accordingly ; and we do hereby declare, that if any such masters of ships, pilots, mariners, seamen, shipwrights, or other seafaring men (being our natural born subjects) shall be taken in any foreign service by the Algerines, or other Barbary powers, and carried into slavery, they shall not be reclaimed by us as subjects of Great Britain.

And we do hereby notify, that all such our subjects as aforesaid, who have voluntarily entered, or shall enter, or voluntarily continue to serve on board of any ships of war belonging to any foreign state at enmity with us, are and will be guilty of high treason : and we do by this our royal proclamation declare, that they shall be punished with the utmost severity of the law.

Given at our court at the Queen's palace, the sixteenth day of October, one thousand eight hundred and seven, and in the forty-seventh year of our reign.  
God save the King.

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS.  
FEB. 2, 1808.

HAVING received an official communication of certain orders of the British government, against the maritime rights of neutrals, bearing date the 11th of November, 1807, I transmit them to Congress, as a farther proof of the increasing dangers to our navigation and commerce which led to the provident measure of the act of the present session, laying an embargo on our own vessels.

TH : JEFFERSON.



*At the Court at the Queen's Palace, the 11th of November, 1807—present, the King's Most Excellent Majesty in Council.*

WHEREAS certain orders, establishing an unprecedented system of warfare against this kingdom, and aimed especially at the destruction of its commerce and resources, were, some time since, issued by the government of France, by which "the British islands were declared to be in a state of blockade," thereby subjecting to capture and condemnation all vessels, with their cargoes, which should continue to trade with his majesty's dominions.

And whereas, by the same orders, "all trading in English merchandise is prohibited, and every article of merchandise belonging to England or coming from her colonies, or of her manufacture, is declared lawful prize."

And whereas the nations in alliance with France, and under her control, were required to give, and have given, and do give, effect to such orders.

And whereas his majesty's order of the 7th of January last, has not answered the desired purpose, either of compelling the enemy to recall those orders, or of inducing neutral nations to interpose, with effect, to obtain their revocation; but on the contrary, the same have been recently enforced with increased rigour.

And whereas, his majesty, under these circumstances, finds himself compelled to take further measures for asserting and vindicating his just rights, and for supporting that maritime power, which the exertions and valour of this people have, under the blessing of Providence, enabled him to establish and maintain; and the maintenance of which is not more essential to the safety and prosperity of his majesty's dominions, than it is to the protection of such states as still retain their independence, and to the general intercourse and happiness of mankind.

His majesty is therefore pleased, by and with the advice of his privy council, to order, and it is hereby ordered, that all the ports and places of France and her allies, or of any other country at war with his majesty, and all other ports or places in Europe, from which, although not at war with his majesty, the British flag is excluded, and all ports or places in the colonies belonging to his majesty's

enemies, shall from henceforth be subject to the same restrictions, in point of trade and navigation, with the exceptions herein after mentioned, as if the same were actually blockaded by his majesty's naval forces, in the most strict and rigorous manner: And it is hereby further ordered and declared, that all trade in articles, which are of the produce or manufacture of the said countries or colonies, shall be deemed and considered to be unlawful; and that every vessel trading from or to the said countries or colonies, together with all goods and merchandise on board, and all articles of the produce or manufacture of the said countries or colonies, shall be captured, and condemned as prize to the captors.

But although his majesty would be fully justified, by the circumstances and considerations above recited, in establishing such system of restrictions, with respect to all the countries and colonies of his enemies, without exception or qualification, yet his majesty being nevertheless desirous not to subject neutrals to any greater inconvenience than is absolutely inseparable from the carrying into effect his majesty's just determination to counteract the designs of his enemies, and to retort upon his enemies themselves the consequences of their own violence and injustice, and being yet willing to hope that it may be possible (consistently with that object) still to allow to neutrals the opportunity of furnishing themselves with colonial produce for their own consumption and supply, and even to leave open, for the present, such trade with his majesty's enemies as shall be carried on directly with the ports of his majesty's dominions, or of his allies, in the manner herein after mentioned.

His majesty is therefore pleased further to order, and it is hereby ordered, that nothing herein contained shall extend to subject to capture or condemnation any vessel, or the cargo of any vessel, belonging to any country, not declared by this order, to be subjected to the restrictions incident to a state of blockade, which shall have cleared out with such cargo from some port or place of the country to which she belongs, either in Europe or America, or from some free port in his majesty's colonies, under circumstances in which such trade from such free port is permitted direct to some port or place in the colonies of his majesty's enemies, or from those colonies direct to the

country to which such vessel belongs, or to some free port in his majesty's colonies, in such cases, and with such articles, as it may be lawful to import into such free port ; nor to any vessel, or the cargo of any vessel, belonging to any country not at war with his majesty, which shall have cleared out from some port or place in this kingdom, or from Gibraltar or Malta, under such regulations as his majesty may think fit to prescribe, or from any port belonging to his majesty's allies, and shall be proceeding direct to the port specified in her clearance ; nor to any vessel or the cargo of any vessel, belonging to any country not at war with his majesty, which shall be coming from any port or place in Europe, which is declared by this order to be subject to the restrictions incident to a state of blockade, destined to some port or place in Europe belonging to his majesty, and which shall be on her voyage direct thereto ; but these exceptions are not to be understood as exempting from capture or confiscation any vessel or goods, which shall be liable thereto, in respect of having entered or departed from any port or place actually blockaded by his majesty's squadrons or ships of war, or for being enemies' property, or for any other cause than the contravention of this present order.

And the commanders of his majesty's ships of war and privateers, and other vessels acting under his majesty's commission, shall be, and are hereby instructed to warn every vessel which shall have commenced her voyage prior to any notice of this order, and shall be destined to any port of France, or of her allies, or of any other country at war with his majesty, or to any port or place from which the British flag as aforesaid is excluded, or to any colony belonging to his majesty's enemies, and which shall not have cleared out as is herein before allowed, to discontinue her voyage, and to proceed to some port or place in this kingdom, or to Gibraltar or Malta ; and any vessel which, after having been so warned, or after a reasonable time shall have been afforded for the arrival of information of this his majesty's order at any port or place from which she sailed, or which, after having notice of this order, shall be found in the prosecution of any voyage contrary to the restrictions contained in this order, shall be captured, and, together with her cargo, condemned as lawful prize to the captors.

And whereas countries, not engaged in the war, have acquiesced in the orders of France, prohibiting all trade in any articles the produce or manufacture of his majesty's dominions; and the merchants of those countries have given countenance and effect to those prohibitions by accepting from persons styling themselves commercial agents of the enemy, resident at neutral ports, certain documents termed "certificates of origin," being certificates obtained at the ports of shipment, declaring that the articles of the cargo are not of the produce or manufacture of his majesty's dominions, or to that effect:

And whereas this expedient has been directed by France, and submitted to by such merchants, as part of the new system of warfare directed against the trade of this kingdom, and as the most effectual instrument of accomplishing the same, and it is therefore essentially necessary to resist it:

His majesty is therefore pleased, by and with the advice of his privy council, to order, and it is hereby ordered, that if any vessel, after reasonable time shall have been afforded for receiving notice of this his majesty's order at the port or place from which such vessel shall have cleared out, shall be found carrying any such certificate or document as aforesaid, or any document referring to, or authenticating the same, such vessel shall be adjudged lawful prize to the captor, together with the goods laden therein, belonging to the person or persons by whom, or on whose behalf any such document was put on board.

And the right honourable the lords commissioners of his majesty's treasury, his majesty's principal secretaries of state, the lords commissioners of the admiralty, and the judges of the high court of admiralty and courts of vice admiralty, are to take the necessary measures herein, as to them shall respectively appertain.

W. FAWKENER.

*At the Court at the Queen's Palace, the 11th of November, 1807—present, the King's Most Excellent Majesty in Council.*

WHEREAS articles of the growth and manufacture of foreign countries cannot by law be imported into this coun-

try, except in British ships, or in ships belonging to the countries of which such articles are the growth and manufacture, without an order in council, specially authorizing the same :

His majesty taking into consideration the order of this day's date, respecting the trade to be carried on to and from the ports of the enemy, and deeming it expedient that any vessel belonging to any country in alliance or at amity with his majesty, may be permitted to import into this country, articles of the produce or manufacture of countries at war with his majesty.

His majesty, by and with the advice of his privy council, is therefore pleased to order, and it is hereby ordered, that all goods, wares, or merchandises, specified and included in the schedule of an act, passed in the forty-third year of his present majesty's reign, intituled "An act to repeal the duties of customs payable in Great Britain, and to grant other duties in lieu thereof," may be imported from any port or place, belonging to any state not at amity with his majesty, in ships belonging to any state at amity with his majesty, subject to the payment of such duties, and liable to such drawbacks as are now established by law upon the importation of the said goods, wares, or merchandise, in ships navigated according to law ; and with respect to such of the said goods, wares, or merchandise, as are authorized to be warehoused under the provisions of an act, passed in the forty-third year of his present majesty's reign, intituled "An act for permitting certain goods imported into Great Britain, to be secured in warehouses without payment of duty," subject to all the regulations of the said last mentioned act ; and with respect to all articles which are prohibited by law from being imported into this country, it is ordered, that the same shall be reported for exportation to any country in amity or alliance with his majesty.

And his majesty is further pleased, by and with the advice of his privy council, to order, and it is hereby ordered, that all vessels which shall arrive at any port of the united kingdom, or at the port of Gibraltar or Malta, in consequence of having been warned pursuant to the aforesaid order, or in consequence of receiving information, in any other manner, of the said order, subsequent to their having taken on board any part of their cargoes, whether



previous or subsequent to their sailing, shall be permitted to report their cargoes for exportation, and shall be allowed to proceed upon their voyages to their original ports of destination, (if not unlawful before the issuing of the said order,) or to any port at amity with his majesty, upon receiving a certificate from the collector or comptroller of the customs at the port at which they shall so enter, (which certificate the said collectors and comptrollers of the customs are hereby authorized and required to give,) setting forth that such vessels came into such port in consequence of being so warned, or of receiving such information as aforesaid; and that they were permitted to sail from such port, under the regulations which his majesty has been pleased to establish in respect to such vessels. But in case any vessel so arriving shall prefer to import her cargo, then such vessel shall be allowed to enter and import the same, upon such terms and conditions as the said cargo might have been imported upon, according to law, in case the said vessel had sailed after having received notice of the said order, and in conformity thereto.

And it is further ordered, that all vessels which shall arrive at any port of the united kingdom, or at Gibraltar or Malta, in conformity and obedience to the said order, shall be allowed, in respect to all articles which may be on board the same, except sugar, coffee, wine, brandy, snuff, and tobacco, to clear out to any port whatever, to be specified in such clearance; and with respect to the last mentioned articles, to export the same to such ports, and under such conditions and regulations only, as his majesty, by any license to be granted for that purpose, may direct.

And the right honourable the lords commissioners of his majesty's treasury, his majesty's principal secretaries of state, the lords commissioners of the admiralty, and the judges of the high court of admiralty and courts of vice admiralty, are to take the necessary measures herein, as to them shall respectively appertain.

W. FAWKENER.



*At the Court at the Queen's Palace, the 11th of November, 1807—present, the King's Most Excellent Majesty in Council.*

WHEREAS the sale of ships by a belligerent to a neutral is considered by France to be illegal :

And whereas a great part of the shipping of France and her allies has been protected from capture during the present hostilities by transfers, or pretended transfers, to neutrals.

And whereas it is fully justifiable to adopt the same rules, in this respect, towards the enemy, which is applied by the enemy to this country.

His majesty is pleased, by and with the advice of his privy council, to order, and it is hereby ordered, that in future the sale to a neutral of any vessel belonging to his majesty's enemies, shall not be deemed to be legal, nor in any manner to transfer the property, nor to alter the character of such vessel : and all vessels now belonging, or which shall hereafter belong to any enemy of his majesty, notwithstanding any sale, or pretended sale to a neutral, after a reasonable time shall have elapsed for receiving information of this his majesty's order at the place where such sale, or pretended sale, was effected, shall be captured and brought in, and shall be adjudged as lawful prize to the captors.

And the right honourable the lords commissioners of his majesty's treasury, his majesty's principal secretaries of state, the lords commissioners of the admiralty, and the judges of the high court of admiralty and courts of vice admiralty, are to take the necessary measures herein, as to them shall respectively appertain.

W. FAWKENER.

## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS. FEB. 9, 1808.

I COMMUNICATE to Congress, for their information, a letter from the person acting in the absence of our consul at Naples, giving reason to believe, on the affidavit of a captain Sheffield, of the American schooner *Mary Ann*, that the dey of Algiers has commenced war against the United States. For this no just cause has been given on our part, within my knowledge. We may daily expect more authentick and particular information on the subject from Mr. Lear, who was residing as our consul at Algiers.

TH: JEFFERSON.

*Marseilles, November 21, 1807.*

SIR,—I had the honour of addressing you on the 5th last August and 14th ultimo. This, under cover of William Lee, Esq. our consul at Bordeaux, is to remit you here enclosed a copy of a letter, I just received from our consul at Naples, dated the 9th instant, begging your reference to its unexpected contents.

I have already advised the American masters and citizens of the United States, in my district, and am sending copies of the same to the minister plenipotentiary of the United States at Paris, and several consuls, in order they may take proper steps for the safety of our merchant vessels and seamen.

In haste, I have the honour to be, &c.

STEPHEN CATHALAN, JUN.

James Madison, Esq. Secretary of State  
United States, Washington.

*Naples, November 9, 1807.*

SIR,—I have the honour to inform you that from the report of captain Ichabod Sheffield, of the schooner *Mary Ann* of New York, arrived on the 4th instant in this port.

from America, it appears that an unexpected war has taken place between the regency of Algiers and the United States: he has declared in this consulate, upon oath, that on the 26th ultimo, he fell in, within the Straits, with an Algerine frigate, of forty-four guns, by which he was made a prize of, and which, without hardly any examination, took three men out of his said schooner, and ordered her into Algiers, under the charge of nine Turks, including a boy; he was in their possession till the 29th, when being near the Barbary shore, he determined himself to endeavour to retake his vessel, in which he had the good fortune to succeed, having thrown four of the Turks overboard, secured four of the others by surprise, whom he embarked in a boat, and kept the boy, who is now on board. He after that shaped his course for Italy, and arrived safe in our mole, on the 4th aforesaid. Captain S. has further declared, that the brig Violet, of Boston, loaded with colonial produce for Leghorn, was also taken within sight of him by the said frigate, and that he had also heard they had captured an American ship and schooner a few days before. I mention in haste these circumstances to you, in order that you may make them known to what Americans are, or may arrive in your port, and take such steps as you may deem most prudent for their safety.

I am, very respectfully, yours, &c. in the absence and by the authorization of Frederick Degen, Esq. consul U. S. A.

J. B. DUCOSTER.

Stephen Cathalan, Esq. Commissioner and  
Navy Agent for the U. S. A. at Marseilles.

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS. FEBRUARY 15, 1808.

I COMMUNICATE, for the information of Congress, a letter from the consul of the United States at Malaga to the Secretary of State, covering one from Mr. Lear, our

consul at Algiers, which gives information, that the rupture threatened on the part of the dey of Algiers has been amicably settled, and the vessels seized by him are liberated.

TH: JEFFERSON.

*Extract of a Letter from William Kirkpatrick, Consul of the United States at Malaga, to the Secretary of State. January 5, 1808.*

“By my last letter of the 15th December, I enclosed copies of the information I had received from Barcelona and Marseilles, regarding the hostilities commenced on our commerce by the cruisers of the dey of Algiers, and am now happy in having it in my power to transmit a copy of a letter I have just received from colonel Lear, under date 16th and 17th December, with the pleasing information that he has succeeded in adjusting matters with the dey, and that the vessels captured had been set at liberty, which I hasten to communicate to you by a vessel on her departure for Salem.”

CIRCULAR.

*Algiers, December 16, 1807.*

SIR,—You have undoubtedly, before this, heard that three American vessels had been detained by a frigate of this place, in consequence of the annuities for two years past not having been paid from the United States in naval and military stores, as stipulated by treaty, notwithstanding the amount thereof has been repeatedly offered in cash.

These vessels are, the ship *Eagle*, of New York, Thatcher, master, from Bristol to Palermo; cargo, glass bottles; brig *Violet*, of Boston, James Merrett, master, from Oporto to Leghorn; cargo, sugar, hides, indigo, &c. and schooner *Mary Ann*, of New York, Ichabod Sheffield, master, from the straits of Belle Isle to Leghorn; cargo, fish.

The two former have been in this port upwards of forty days. The schooner has not arrived, and is supposed to have made some other port.

The people on board these vessels have been treated very well, and no pillage of any kind has been committed.

I have now the honour to inform you that I have adjusted this business with the dey, who has received the amount of two years annuities due, in cash, and the vessels are liberated; and that our commerce will receive no further molestation from the cruisers of this regency.

I pray you will have the goodness to give this as much publicity as possible, for the benefit of all concerned therein.

I have the honour, &c.

TOBIAS LEAR.

William Kirkpatrick, Esq. Consul of the }  
United States of America, Malaga. }

*December 17, 1807.*

P. S. WE have this moment heard, by an arrival at Leghorn, that the schooner before mentioned has arrived in Naples, having been retaken by the captain and part of the crew left on board, who threw overboard four of the captors, and put four others in the boat to shift for themselves.

I have myself received no advice of this; and, on application to the dey, who first sent me the information, he assures me that it shall not alter the arrangement made yesterday, and that our vessels may navigate without fear or molestation. At present all their cruisers are in port.

I have the honour to be, &c.

TOBIAS LEAR.

Please to forward a copy of this letter to the Secretary of State of the United States by the first opportunity.

A true copy.

WM. KIRKPATRICK.

Malaga, January 5, 1808.

## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS.  
FEBRUARY 26, 1808.

I ENCLOSE, for the information of Congress, letters recently received from our ministers at Paris and London, communicating their representations against the late decrees and orders of France and Great Britain, heretofore transmitted to Congress. These documents will contribute to the information of Congress, as to the dispositions of those powers, and the probable course of their proceedings towards neutrals; and will doubtless have their due influence in adapting the measures of the legislature to the actual crisis.

Although nothing forbids the general matter of these letters from being spoken of without reserve; yet as the publication of papers of this description would restrain injuriously the freedom of our foreign correspondence, they are communicated, so far confidentially, and with a request that after being read to the satisfaction of both houses, they may be returned.

TH: JEFFERSON.

[These communications are not to be published.]

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS. MARCH 17, 1808.

I HAVE heretofore communicated to Congress the decrees of the government of France of November 21, 1806, and of Spain of February 19, 1807, with the orders of the British government of January and November, 1807.

I now transmit a decree of the emperor of France, of December 17, 1807, and a similar decree of 3d January last, by his catholick majesty. Although the decree of France has not been received by official communication.



yet the different channels of promulgation through which the publick are possessed of it, with the formal testimony furnished by the government of Spain, in their decree, leave us without a doubt that such a one has been issued. These decrees and orders taken together, want little of amounting to a declaration that every neutral vessel found on the high seas, whatsoever be her cargo, and whatsoever foreign port be that of her departure, or destination, shall be deemed lawful prize; and they prove more and more the expediency of retaining our vessels, our seamen, and property within our own harbours, until the dangers to which they are exposed can be removed or lessened.

TH: JEFFERSON.

### IMPERIAL DECREE.

REJOINDER TO HIS BRITANNICK MAJESTY'S ORDER IN COUNCIL, OF NOVEMBER 11, 1807.

*At our Royal Palace at Milan, December 17, 1807.*

· NAPOLEON, emperor of the French, king of Italy, and protector of the Rhenish confederation.

Observing the measures adopted by the British government, on the 11th November last, by which vessels belonging to neutral, friendly, or even powers the allies of England, are made liable, not only to be searched by English cruisers, but to be compulsorily detained in England, and to have a tax laid on them of so much per cent. on the cargo, to be regulated by the British legislature.

Observing that by these acts the British government *denationalizes* ships of every nation in Europe, that it is not competent for any government to detract from its own independence and rights, all the sovereigns of Europe having in trust the sovereignties and independence of the flag; that if by an unpardonable weakness, and which in the eyes of posterity would be an indelible stain, if such a tyranny was allowed to be established into principles, and consecrated by usage, the English would avail themselves of it to assert it as a right, as they have availed themselves of the tolerance of government to establish the infamous principle, that the flag of a nation does not cover goods, and to give to their right of blockade an arbitrary ex-

tension, and which infringes on the sovereignty of every state; we have decreed and do decree as follows:

ART. I. Every ship, to whatever nation it may belong, that shall have submitted to be searched by an English ship, or to a voyage to England, or shall have paid any tax whatsoever to the English government, is thereby and for that alone, declared to be *denationalized*, to have forfeited the protection of its king, and to have become English property.

ART. II. Whether the ships thus *denationalized* by the arbitrary measures of the English government, enter into our ports, or those of our allies, or whether they fall into the hands of our ships of war, or of our privateers, they are declared to be good and lawful prize.

ART. III. The British islands are declared to be in a state of blockade, both by land and sea. Every ship, of whatever nation, or whatsoever the nature of its cargo may be, that sails from the ports of England, or those of the English colonies, and of the countries occupied by English troops, and proceeding to England, or to the English colonies, or to countries occupied by English troops, is good and lawful prize, as contrary to the present decree, and may be captured by our ships of war, or our privateers, and adjudged to the captor.

ART. IV. These measures, which are resorted to only in just retaliation of the barbarous system adopted by England, which assimilates its legislation to that of Algiers, shall cease to have any effect with respect to all nations who shall have the firmness to compel the English government to respect their flag. They shall continue to be rigorously in force as long as that government does not return to the principle of the law of nations, which regulates the relations of civilized states in a state of war. The provisions of the present decree shall be abrogated and null, in fact, as soon as the English abide again by the principles of the law of nations, which are also the principles of justice and of honour.

All our ministers are charged with the execution of the present decree, which shall be inserted in the bulletin of the laws.

NAPOLEON.

By Order of the Emperor,

H. B. MARET,  
Secretary of State.

*Madrid, Jan. 6, 1808.*

SIR,—I hasten to transmit to you a copy of a decree issued by this government on the 3d instant, adopting the principles of the decree given at Milan on the 17th ult. by the emperor of France, and conceived (as to the enacting part) in precisely the same terms. This has been communicated to me by Mr. Cevallos, in a note of yesterday's date, unaccompanied by any observation on it.

I have the honour to be, &c.

GEORGE W. ERVING.

To James Madison, Esq. Secretary of State.

His majesty has been pleased to issue the following royal decree :

THE abominable outrages committed by the English vessels of war in the year 1804, by the express order of their government, on four frigates of my royal navy, which, navigating under the full security of peace, were iniquitously surprised, attacked, and captured, determined me to break off all connexion with the British cabinet, and to consider myself in a state of war with a power which had so unjustly violated the laws of nations and of humanity. An aggression so atrocious gave me a sufficient motive to break all those ties which unite one nation to another, even if I had not considered what I owed to myself and to the honour and glory of my crown, and of my beloved subjects. Two years of war had passed without producing, on the part of Great Britain, a diminution of her pride, or a renunciation of the unjust domination which she exercised over the sea : on the contrary, confounding her friends with her enemies and with neutrals, she has manifested her decided will to treat all with the same tyranny. Under these considerations, I determined in February of the last year, conforming myself to the wise measures adopted by my intimate ally the emperor of the French and king of Italy, to declare, as I did declare, the British isles in a state of blockade, to see if, by this step, I could convince the British cabinet, that it ought to renounce its unjust domination

over the sea, and resolve on making a solid and durable peace. Far from this : not only has it rejected the propositions which have been made to it on the part of my intimate ally the emperor of the French and king of Italy, as well those made by himself as those made through the medium of several powers, friends of England ; but, having committed the greatest atrocity and piracy, in the scandalous attack on the city and port of Copenhagen, it has thrown off the mask in such a way that no one can doubt that its insatiable ambition aspires to the exclusive commerce and navigation of every sea. Nothing proves it more than the measures which it has just adopted, under date of the 14th November last, not only declaring all the coasts of France, of Spain, of their allies, and those occupied by the arms of the one or the other power, in a state of blockade, but subjecting the vessels of neutral powers, friends and even allies of England, not only to be searched by English cruisers, but likewise to touch, contrary to their will, at an English port, and also subjecting them to the arbitrary payment of a certain per centage on their cargoes, as may be determined by the English legislature. Authorized then, by the just right of reciprocity, to take those measures which may seem to me proper, to prevent the abuse which the British cabinet is making of its forces with respect to the neutral flag, and to see if, in this way, a renunciation of so unjust a tyranny can be obtained, I have come to the determination to adopt, and *I will* that there be adopted in all my dominions, the same measures which my intimate ally, the emperor of the French and king of Italy has adopted, and they are as follows :

Considering that, by the act above mentioned of the 14th November last, the British cabinet has *denationalized* the vessels of all the nations of Europe, and that it is not at the discretion of any government to accommodate (transiger) as to its independence and its rights, all the sovereigns of Europe being guarantees of the sovereignty and of the independence of their flags ; and that, if, through an unpardonable weakness, which would be an indelible stain in the eyes of posterity, such tyranny should be suffered to be laid down as a principle and consecrated by use, the English would take it as granted to establish it as a right in the same way that they have availed themselves of the tolerance of governments, to establish the infamous princi-

ple that the flag does not cover the merchandise, and to give to its right of blockade an arbitrary extension aimed at the sovereignty of all states, I have decreed, and do decree as follows :

ART. I. Every vessel, of whatever nation she may be, which may have been visited, (visitado) by an English ship, or may have submitted to touch at a port of England, or may have paid any duty to the English government, is from that act declared to be denationalized, loses the protection of its flag, and makes itself English property.

II. The vessels so denationalized by the arbitrary measures of the British government, whether they enter into our ports, or enter those of our allies, or whether they fall into the possession of our ships of war or our privateers, are good and valid prize.

III. The British Isles are declared in a state of blockade, as well by sea as by land. Every vessel, of whatever nation she may be, whatever may be her cargo, despatched (expedido) from the ports of England, or of the English colonies, or from the countries occupied by the English troops, will be a good prize, as contravening this decree, will be liable to capture by our ships of war, or by our privateers, and will be adjudged to the captor.

These measures, which are nothing more than a just reciprocation of the barbarous system adopted by the English government, which assimilates its legislation to that of Algiers, will cease to have effect in all those nations who know how to oblige the English government to respect their flag, and will continue in full force until the English government return to the adoption of those principles of the laws of nations which establish the relations of civilized states in time of war.

The dispositions of the present decree will be revoked and have no effect, so soon as the English government shall have returned to the adoption of those principles of the laws of nations which are equally those of justice and of honour.

You will keep this in mind, and communicate it to those to whom belongs its execution.

Signed with the royal hand of his majesty, at Aranjuez, on the 3d of January, 1808.

PEDRO CEVALLOS.

## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES RELATIVE  
TO ENGLAND AND FRANCE. MARCH 22, 1808.

[Cannot be published. Message, &c. recalled, and copy not to be found  
in Secretary of State's office.]

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS.  
MARCH 22, 1808.

AT the opening of the present session, I informed the legislature, that the measures which had been taken with the government of Great Britain for the settlement of our neutral and national rights, and of the conditions of commercial intercourse with that nation, had resulted in articles of a treaty, which could not be acceded to on our part; that instructions had consequently been sent to our ministers there, to resume the negotiations, and to endeavour to obtain certain alterations, and that this was interrupted by the transaction which took place between the frigates *Leopard* and *Chesapeake*; the call on that government for reparation of this wrong produced, as Congress have been already informed, the mission of a special minister to this country, and the occasion is now arrived, when the publick interest permits and requires that the whole of these proceedings should be made known to you.

I therefore now communicate the instructions given to our minister resident at London, and his communications to that government on the subject of the *Chesapeake*, with the correspondence which has taken place here, between the Secretary of State and Mr. Rose, the special minister charged with the adjustment of that difference; the instructions to our ministers for the formation of a treaty; their correspondence with the British commissioners, and



with their own government on that subject, the treaty itself, and written declaration of the British commissioners accompanying it, and the instructions given by us for resuming the negotiation, with the proceedings and correspondence subsequent thereto. To these I have added a letter lately addressed to the Secretary of State, from one of our late ministers, which, though not strictly written in an official character, I think it my duty to communicate, in order that his views of the proposed treaty, and of its several articles, may be fairly presented and understood.

Although I have heretofore, and from time to time, made such communications to Congress as to keep them possessed of a general and just view of the proceedings and dispositions of the government of France towards this country, yet, in our present critical situation, when we find that no conduct on our part, however impartial and friendly, has been sufficient to ensure, from either belligerent, a just respect for our rights, I am desirous that nothing shall be omitted on my part which may add to your information on this subject, or contribute to the correctness of the views which should be formed. The papers, which, for these reasons, I now lay before you, embrace all the communications, official or verbal, from the French government, respecting the general relations between the two countries, which have been transmitted through our minister there, or through any other accredited channel, since the last session of Congress, to which time all information of the same kind had, from time to time, been given them. Some of these papers have already been submitted to Congress; but it is thought better to offer them again, in order that the chain of communications, of which they make a part, may be presented unbroken.

When, on the 26th February, I communicated to both houses the letter of general Armstrong to M. Champagny, I desired it might not be published, because of the tendency of that practice to restrain injuriously the freedom of our foreign correspondence. But perceiving that this caution, proceeding purely from a regard to the publick good, has furnished occasion for disseminating unfounded suspicions and insinuations, I am induced to believe that the good which will now result from its publication, by confirming the confidence and union of our fellow citizens, will more than countervail the ordinary objection

to such publications. It is my wish therefore that it may be now published.

TH: JEFFERSON.

No. I.

*From Mr. Madison to Mr. Monroe. Department of State,  
July 6, 1807.*

SIR,—The documents herewith enclosed, from No. 1 to No. 9 inclusive, explain the hostile attack, with the insulting pretext for it, lately committed near the capes of Virginia by the British ship of war the Leopard on the American frigate the Chesapeake. No. 10 is a copy of the proclamation issued by the President, interdicting in consequence of that outrage the use of our waters and every other accommodation to all British armed ships.

This enormity is not a subject for discussion. The immunity of a national ship of war from every species and purpose of search on the high seas has never been contested by any nation. Great Britain would be second to none in resenting such a violation of her rights and such an insult on her flag. She may bring the case to the test of her own feelings by supposing that, instead of the customary demand of our mariners serving compulsively even on board her ships of war, opportunities had been seized for rescuing them in like manner, whenever the superiority of force or the chance of surprise might be possessed by our ships of war.

But the present case is marked by circumstances which give it a peculiar die. The seamen taken from the Chesapeake had been ascertained to be native citizens of the United States, and this fact was made known to the bearer of the demand, and doubtless communicated by him to his commander previous to the commencement of the attack. It is a fact also, affirmed by two of the men, with every appearance of truth, that they had been impressed from American vessels into the British frigate, from which they escaped, and by the third, that having been impressed from a British merchant ship, he had accepted the recruiting bounty under that duress, and with a view to alleviate his situation, till he could escape to his own country: and that the attack was made during a period of negotiation;

and in the midst of friendly assurances from the British government.

The printed papers herewith sent will enable you to judge of the spirit which has been roused by the occasion. It pervades the whole community; is abolishing the distinctions of party; and regarding only the indignity offered to the sovereignty and flag of the nation, and the blood of citizens so wantonly and wickedly shed, demands in the loudest tone an honourable reparation.

With this demand you are charged by the President. The tenour of his proclamation will be your guide in reminding the British government of the uniform proofs given by the United States of their disposition to maintain faithfully every friendly relation; of the multiplied infractions of their rights by British naval commanders on our coasts and in our harbours; of the inefficacy of reiterated appeals to the justice and friendship of that government; and of the moderation on the part of the United States, which reiterated disappointments had not extinguished; till at length no alternative is left, but a voluntary satisfaction on the part of Great Britain, or a resort to means depending on the United States alone.

The nature and extent of the satisfaction ought to be suggested to the British government, not less by a sense of its own honour than by justice to that of the United States. A formal disavowal of the deed, and restoration of the four seamen to the ship from which they were taken, are things of course, and indispensable. As a security for the future, an entire abolition of impressments from vessels under the flag of the United States, if not already arranged, is also to make an indispensable part of the satisfaction. The abolition must be on terms compatible with the instructions to yourself and Mr. Pinckney on this subject; and if possible without the authorized rejection from the service of the United States of British seamen who have not been two years in it. Should it be impossible to avoid this concession on the part of the United States, it ought, as of itself more than a reasonable price for future security, to extend the reparation due for the past.

But beyond these indispensable conditions, the United States have a right to expect every solemnity of form and every other ingredient of retribution and respect, which,

according to usage and the sentiments of mankind, are proper in the strongest cases of insult to the rights and sovereignty of a nation. And the British government is to be apprized of the importance of a full compliance with this expectation to the thorough healing of the wound, which has been made in the feelings of the American nation.

Should it be alleged as a ground for declining or diminishing the satisfaction in this case, that the United States have themselves taken it by the interdict contained in the proclamation, the answer will be obvious. The interdict is a measure, not of reparation, but of precaution, and would besides be amply justified by recurrences prior to the extraordinary outrage in question.

The exclusion of all armed ships whatever from our waters is in fact so much required by the vexations and dangers to our peace, experienced from their visits, that the President makes it a special part of the charge to you, to avoid laying the United States under any species of restraint from adopting that remedy. Being extended to all belligerent nations, none of them could of right complain, and with the less reason, as the policy of most nations has limited the admission of foreign ships of war into their ports, to such numbers as being inferior to the naval force of the country, could be readily made to respect its authority and laws.

As it may be useful, in enforcing the justice of the present demand, to bring into view applicable cases, especially where Great Britain has been the complaining party, I refer you to the ground taken and the language held by her, in those of Falkland's island and Nootka sound, notwithstanding the assertion by Spain in both cases, that the real right was in her, and the possessory only in Great Britain. These cases will be found in the Annual Registers for 1771, and 1790, and in the parliamentary debates for those years. In the latter you will find also two cases referred to, in one of which the French king sent an ambassador extraordinary to the king of Sardinia, in the most publick and solemn manner, with an apology for an infringement of his territorial rights in the pursuit of a smuggler and murderer. In the other case, an ambassador extraordinary was sent by the British government to the court of Portugal, with an apology for the pursuit and destruction, by

admiral Boscawen, of certain French ships on the coasts of this last kingdom. Many other cases, more or less analogous, may doubtless be found; see, particularly, the reparation by France to Great Britain, for the attack on Turk's Island in 1761, as related in the Annual Register, and in Smollet's Continuation of Hume, vol. 10. the proceedings in the case of an English merchantman, which suffered much, in her crew and otherwise, from the fire of certain Spanish Xebecs cruising in the Mediterranean; and the execution of the lieutenant of a privateer, for firing a gun into a Venetian merchantman, which killed the captain, as stated in the Annual Register, for 1781, page 94. The case of an affront offered to a Russian ambassador in the reign of queen Anne, though less analogous, shows, in a general view, the solemnity with which reparation is made for insults having immediate relation to the sovereignty of a nation.

Although the principle which was outraged in the proceedings against the American frigate is independent of the question concerning the allegiance of the seamen taken from her, the fact that they were citizens of the United States, and not British subjects, may have such an influence on the feelings of all, and perhaps on the opinions of some unacquainted with the laws and usages of nations, that it has been thought proper to seek more regular proofs of their national character than were deemed sufficient in the first instance. These proofs will be added by this conveyance, if obtained in time; if not, by the first that succeeds.

The President has an evident right to expect from the British government, not only an ample reparation to the United States, in this case, but that it will be decided without difficulty or delay. Should this expectation fail, and above all, should reparation be refused, it will be incumbent on you to take proper measures for hastening home, according to the degree of urgency, all American vessels remaining in British ports; using, for the purpose, the mode least likely to awaken the attention of the British government. Where there may be no ground to distrust the prudence or fidelity of consuls, they will probably be found the fittest vehicles for your intimations. It will be particularly requisite to communicate to our pub-

lick ships in the Mediterranean the state of appearances, if it be such as ought to influence their movements.

All negotiation with the British government on other subjects will of course be suspended, until satisfaction on this be so pledged and arranged as to render negotiation honourable. Whatever may be the result or the prospect, you will please to forward to us the earliest information.

The scope of the proclamation will signify to you, that the President has yielded to the presumption, that the hostile act of the British commander did not pursue the intentions of his government. It is not indeed easy to suppose that so rash and so critical a step should have originated with the admiral, but it is still more difficult to believe, that such orders were prescribed by any government, under circumstances such as existed between Great Britain and the United States.

Calculations, founded on dates, are also strongly opposed to the supposition, that the orders in question could have been transmitted from England. In the same scale, are to be put the apparent and declared persuasion of the British representative, Mr. Erskine, that no orders of a hostile spirit could have been issued or authorized by his government; and the coincidence of this assurance with the amicable professions of Mr. Canning, the organ of the new administration, as stated in the despatch of April 22, from yourself and Mr. Pinckney.

Proceeding on these considerations, the President has inferred that the justice and honour of the British government will readily make the atonement required; and in that expectation, he has forborne an immediate call of Congress; notwithstanding the strong wish which has been manifested by many, that measures, depending on their authority, should without delay be adopted. The motives to this forbearance have at the same time been strengthened by the policy of avoiding a course, which might stimulate the British cruisers, in this quarter, to arrest our ships and seamen now arriving and shortly expected in great numbers from all quarters. It is probable however that the legislature will be convened in time to receive the answer of the British government on the subject of this despatch, or even sooner, if the conduct of the British



squadron here, or other occurrences, should require immediate measures beyond the authority of the Executive.

In order to give the more expedition and security to the present despatch, a publick armed vessel, the *Revenge*, is specially employed; and Dr. Bullus is made the bearer, who was on board the *Chesapeake*, on his way to a consulate in the Mediterranean, and will be able to detail and explain circumstances which may possibly become interesting in the course of your communications with the British government.

The vessel, after depositing Dr. Bullus at a British port, will proceed with despatches to a French port, but will return to England with a view to bring the result of your transactions with the British government. The trip to France will afford you and Mr. Pinckney a favourable opportunity of communicating with our ministers at Paris, who being instructed to regulate their conduct on the present occasion by the advices they may receive from you, will need every explanation that can throw light on the probable turn and issue of things with Great Britain.

I have the honour to be, &c.

JAMES MADISON.

## No. II.

*Correspondence between Mr. Monroe and Mr. Canning, in Relation to the Attack on the Chesapeake, with Mr. Monroe's Letters to the Secretary of State on the same Subject.*

PRIVATE.

*Foreign Office, Saturday, July 25, 1807.*

MR. CANNING presents his compliments to Mr. Monroe; and with sentiments of the deepest regret hastens to inform him that intelligence has just been received of a transaction which has taken place off the coast of America, between a ship of war of his majesty, and a frigate belonging to the United States; the result of which has been the loss of some lives on board the American frigate.

The particulars of this transaction, and the grounds of the justification of the British officer, and of the admiral

under whose orders he acted, Mr. Canning is not at present enabled to communicate to Mr. Monroe.

If Mr. Monroe should have received any accounts of it, Mr. Canning trusts that he will lose no time in communicating them to Mr. Canning.

But whatever the real merits and character of the transaction may turn out to be, Mr. Canning could not forbear expressing without delay the sincere concern and sorrow which he feels at its unfortunate result; and assuring the American minister, both from himself and on the behalf of his majesty's government, that if the British officers should prove to have been culpable, the most prompt and effectual reparation shall be afforded to the government of the United States.

James Monroe, Esq. &c. &c. &c.

*To Mr. Canning.*

MR. MONROE presents his compliments to Mr. Canning; and is much obliged to him for the information communicated in his note of Saturday. Mr. Monroe has heard with extreme regret the account it contains of a rencontre between a British ship of war and an American frigate off the coast of the United States. He has no knowledge of the subject except what Mr. Canning's note has furnished, but will not fail to communicate the earliest intelligence which he may receive of an event so deeply to be lamented. Mr. Monroe derives in the mean time much satisfaction from the friendly assurance of Mr. Canning, that this unfortunate occurrence was not authorized by his majesty's government, and that suitable reparation will be made for the injury, if on inquiry the British officer shall be found the aggressor.

Portland Place, Monday, July 27, 1807.

The Right Hon. George Canning, &c. &c. &c.

*To Mr. Canning. Portland Place, July 29, 1807.*

SIR,—Although I have no instruction from my government on the subject, it is my duty to request the attention of his Britannick majesty's government to a late aggression

on the sovereignty of the United States, of a very extraordinary nature. The circumstances of the transaction are too distinctly marked to leave any doubt of the extent of the outrage, or of the reparation which it obviously claims. By accounts which are entitled to full confidence, it appears, that on the 23d of June last, his majesty's ship the *Leopard* attacked an American frigate off the coast of the United States, with a view to assert and enforce the unfounded and most unjustifiable pretension to search for deserters, and after having killed and wounded a number of her men, entered on board and carried away forcibly several of the crew. The conduct of the British officer, which in itself forms an act of complete hostility, is rendered more reprehensible from the consideration, that just before this aggression he held a station within the jurisdiction of the United States, in the waters of the Chesapeake, where, while he enjoyed the rights of hospitality, he projected this attack against the ship of a neutral power, whose commander, relying on the good faith of his majesty's government, and the friendly relations subsisting between Great Britain and the United States, could not have suspected the design. I might state other examples of great indignity and outrage, many of which are of recent date, to which the United States have been exposed off their coast, and even within several of their harbours, from the British squadron; but it is improper to mingle them with the present more serious cause of complaint. I have called your attention to this subject, in full confidence that his majesty's government will see, in the act complained of, a flagrant abuse of its own authority, and that it will not hesitate to enable me to communicate to my government, without delay, a frank disavowal of the principle on which it was made, and its assurance that the officer who is responsible for it shall suffer the punishment which so unexampled an aggression on the sovereignty of a neutral nation justly deserves.

I have the honour to be, &c.

JAMES MONROE.

The Right Hon. George Canning, &c. &c. &c.

*From Mr. Canning. Foreign Office, Aug. 3, 1807.*

SIR,—I have the honour to acknowledge the receipt of your official note of the 29th ult. which I have lost no time in laying before the king.

As the statement of the transaction, to which this note refers, is not brought forward either by the authority of the government of the United States, or with any precise knowledge of the facts on which it is founded, it might have been sufficient for me to express to you his majesty's readiness to take the whole of the circumstances of the case, when fully disclosed, into his consideration, and to make reparation for any alleged injury to the sovereignty of the United States, whenever it should be clearly shown that such injury has been actually sustained, and that such reparation is really due.

Of the existence of such a disposition, on the part of the British government, you, sir, cannot be ignorant: I have already assured you of it, though in an unofficial form, by the letter which I addressed to you on the first receipt of the intelligence of this unfortunate transaction: and I may perhaps be permitted to express my surprise, after such an assurance, at the tone of that representation which I have just had the honour to receive from you.

But the earnest desire of his majesty to evince, in the most satisfactory manner, the principles of justice and moderation by which he is uniformly actuated, has not permitted him to hesitate in commanding me to assure you, that his majesty neither does, nor has at any time, maintained the pretension of a right to search ships of war, in the national service of any state, for deserters.

If, therefore, the statement in your note should prove to be correct, and to contain all the circumstances of the case, upon which complaint is intended to be made, and if it shall appear that the act of his majesty's officers rested on no other grounds than the simple and unqualified assertion of the pretension above referred to, his majesty has no difficulty in disavowing that act, and will have no difficulty in manifesting his displeasure at the conduct of his officers.

With respect to the other causes of complaint [whatever they may be] which are hinted at in your note, I perfectly

agree with you, in the sentiment which you express, as to the propriety of not involving them in a question, which is of itself of sufficient importance to claim a separate and most serious consideration.

I have only to lament, that the same sentiment did not induce you to abstain from alluding to these subjects, on an occasion which you were, yourself, of opinion, was not favourable for pursuing the discussion of them.

I have the honour to be, with great consideration, &c.

GEORGE CANNING.

James Monroe, Esq. &c. &c. &c.

No.

*London, August 4, 1807.*

SIR,—I avail myself of the opportunity, afforded by Mr. Biddle, to communicate to you a copy of a correspondence, and the substance of a conference, between Mr. Canning and myself, relative to the late aggression on the peace and sovereignty of the United States, by the British ship *Leopard*, in an attack on the Chesapeake off the capes of Virginia.

Mr. Canning's private letter of July 25, which gave the first intelligence of the occurrence, left it doubtful whether the British officers had been culpable in it, and as I knew how very reprehensible their conduct had been on our coast, on many other occasions, and to what height the sensibility of our citizens had been excited by it, I thought it not improbable that something might have occurred to divide the blame between the parties. It was under that impression that my answer was written. On the next day the leading features of the transaction were presented to the publick through the medium of the gazettes, which were taken from private accounts received directly from Halifax, by a vessel which had been despatched by admiral Berkeley with the official one. By these it was evident that the British officer was completely the aggressor, in an outrage of great enormity, attended with circumstances which increased the offence. It was understood likewise from good authority, that the official intelligence, which the government had received, corresponded with and confirmed the other accounts already before the publick.

On full consideration of these circumstances, I concluded that it would be highly improper for me to leave the affair on the ground on which Mr. Canning had placed it. I could see no other motive in him to obtain further information relative to the transaction, than for the purpose of ascertaining whether the men said to be deserters, and for whom the attack was made, were American citizens or British subjects; to which it was impossible for me to give any countenance. I thought it indispensable therefore to call on the government to disavow the principle, and to engage such other reparation to the United States, as their injured honour obviously required. It appeared to me, that any delay in taking that step which depended on an abstract principle, and required no argument to illustrate, or facts to support it, would have a tendency to weaken a claim which was unquestionable, and to countenance the idea that it would not be supported with suitable energy.

I had, before the knowledge of this event, obtained the appointment of an interview with Mr. Canning on other business, to take place on the 29th ultimo. We met according to the appointment; I observed, in opening the conference, that although the topicks, which had brought us together, were important, the late occurrence at the entrance of the Chesapeake had in a great measure put them out of sight. He expressed his regret that such an event, which would at all times furnish cause of concern, should have happened at the present time. He asked if the men in question were Americans citizens, or British subjects? I replied that that it was a point which could not come into view in the case: that it was one which, according as the fact might be, would make the cause more or less popular, in either country, but could not affect the principle: that, on principle, a ship of war protected all the people on board, and could not be entered to be searched for deserters, or for any purpose, without violating the sovereignty of the nation whose flag she bore; that in the present case I had been assured, that the men were American citizens, and that the British minister at Washington had been made acquainted with it. He said little on the subject, but by the tendency of what he did say seemed to imply that his government could not lose sight of the consideration above alluded to, nor indeed did he admit by any thing that



escaped him, that the abstract principle itself would not be insisted on. His remarks however were generally of a conciliatory and friendly character; without pledging himself on any point, he seemed desirous to satisfy me, that no new orders had been issued by the present ministry to the commandant of the British squadron at Halifax. I observed, that as the notes which had passed between us, were informal, and on a very limited view of the subject, on my part, it would be proper for me, now that the circumstances were better known, to present him an official note on it; he admitted the propriety of it.

I then drew Mr. Canning's attention to the subjects on which I had asked the interview; being the case of the *Impetueux*, captain Love's correspondence, the conduct of captain Douglass, and of the British squadron generally on our coast. I observed that I had heretofore postponed any official communication on these points, from a desire to connect them with the greater objects depending between our governments, and of course, from motives the most friendly: that I brought them to his view at this time, in consequence of Mr. Pinckney and myself having commenced the other business, as he knew had been done; he promised to attend to them.

On the 29th July, I wrote Mr. Canning the note which I had promised him in the late interview: I addressed it in terms which I thought suitable to the occasion, observing to state in it, that I took the step from a sense of duty, applicable to my station as the resident minister, and without authority from my government: I considered the act as that of the British officer, in which the government had no agency, was not bound to support, and which it would be honourable for it to disavow. I flattered myself that some advantage might arise from the measure, and that under the circumstances in which it was taken, no injury possibly could. His reply is dated on the 3d instant, which, though addressed in rather a harsh tone, may be considered as conceding essentially the point desired. It is my intention to say nothing more to him on the subject, till I hear from you, and in the mean time to observe the most conciliatory conduct that circumstances will admit.

Such is the state of this country at the present crisis, that it is impossible to foresee what will be its course of

conduct towards the United States. There has been at all times, since the commencement of the present war, a strong party here for extending its ravages to them. This party is composed of the ship owners, the navy, the East and West India merchants, and several political characters of great consideration in the state. So powerful is this combination, that it is most certain that nothing can be obtained of the government on any point but what may be extorted by necessity. The disasters to the north ought to inspire moderation, but with respect to the northern powers, it seems to have produced directly the opposite effect. A fleet of about 25 ships of the line, with a suitable number of frigates, &c. and above twenty thousand men, has been lately equipped, and sent to the Baltick, as it is said, to take possession of the Danish and Russian navies. This measure is imputed to an understanding which it is supposed has been established between the cabinets of Russia and Paris by the late peace, and which has for its object a concert of measures for the purpose of attempting to force on this country a maritime code more favourable to neutral nations. The motive assigned for the expedition, is that of taking possession of the Danish fleet, to keep it out of the hands of the French; that the Russian fleet is one of the objects is not so generally believed, though perhaps not less probable.

Mr. Pinckney and myself have taken the first step in our business. We will write you in a few days the state of it. You may be assured that we shall do every thing in our power to promote, in the mode most likely to succeed, the object of our instructions and the interests of our country. Want of time prevents my going into further detail.

I have the honour to be, &c.

JAMES MONROE.

James Madison, Esq.

Secretary of State, Washington.

*From Mr. Canning to Mr. Monroe. Foreign Office, Aug. 8, 1807.*

SIR,—Having received from his majesty's minister in America an unofficial printed paper, purporting to be a

copy of a proclamation of the President of the United States, I have to request that you will be pleased to acquaint me, whether you have received any communication from your government which enables you to pronounce if such paper be authentick ?

In the event of your being empowered to admit its authenticity, I have further to request of you, that you will inform me whether you are also authorized to announce it to be the intention of the government of the United States to carry into effect the measures stated in the proclamation of the President, without requiring, or waiting for, any explanation, on the part of the British government, with respect to the late unfortunate transaction, upon which the determination to resort to these measures is professed to be founded ?

I have the honour to be, &c.

GEORGE CANNING.

P. S. I have the honour to enclose an American newspaper, containing a copy of the paper in question.

*Mr. Monroe to Mr. Canning. Portland Place, August 9,  
1807.*

SIR,—I have the honour to acknowledge the receipt of your note of yesterday, and should not hesitate to communicate the information which you have desired, if I possessed it ; but as I have not heard from my government on the subject of the unfortunate occurrence alluded to, it is not in my power to state to you any thing on the part of my government respecting it. I have no doubt that I shall be instructed in a very few days to make a communication to his majesty's government on that highly interesting event, in which I shall be enabled to furnish a full and just view of all the circumstances attending it. As soon as I receive instructions I shall hasten to apprise you of it.

I have the honour to be, &c.

JAMES MONROE.

*Mr. Monroe to the Secretary of State of the United States.  
London, August 14, 1807.*

SIR,—I had the honour to transmit you with my letter of the fourth instant a copy of a correspondence with Mr. Canning, relative to the late aggression in the case of the Chesapeake frigate. You will receive with this a copy of a more recent one on the same subject.

By Mr. Canning's queries in his last note, I was led to consider it as preparatory to an embargo on American vessels. I could not conceive why he should request information of me, whether the President's proclamation was authentick, and when it would be carried into effect, if it was not intended to found some measure on my reply of an unfriendly nature. The information desired was not necessary to remove any doubts of his government, on the points to which it applied, or to enable it to do justice to the United States, in regard to the aggression of which they complained. The presumption that an embargo was intended gained strength from the circumstance that most of the gazettes had recommended, and that the publick mind seemed to be essentially prepared for it. It was my most earnest wish to prevent, as far as in my power, so unjust and pernicious a procedure. As the measure contemplated, whatever it might be, seemed to be suspended for my answer, I was extremely solicitous, by the manner, to deprive this government of all pretext for any of the kind alluded to. By replying generally that I had no instructions from my government, and could state nothing on its part respecting the late occurrence, I avoided giving a direct answer to Mr. Canning's queries; and by drawing his attention to the application which it was to be presumed would soon be made on the part of my government, on that subject, I endeavoured to show more strongly the impolicy and injustice which would stamp any such measure on the part of Great Britain in the present stage.

No step has yet been taken by this government of an unfriendly character towards the United States; and from the communication which Mr. Canning made to the house of commons on the day he received my last note, which you will find in the gazettes sent, I am persuaded that things will remain in the state in which they are, till your

despatch is received. I trust that a disposition exists to make such reparation on the point in question, as will be satisfactory to the United States, and that it will be practicable and not difficult to preserve the friendly relations subsisting between the two countries. The party however in favour of war, consisting of the combined interests mentioned in my last, is strong and active, so that it is impossible to foresee the result.

I have the honour to be, &c.

JAMES MONROE.

No. 10.

*To Mr. Canning.*

MR. MONROE presents his compliments to Mr. Canning, and has the honour to inform him, that he has just received instructions from his government relative to the late attack of the United States' frigate Chesapeake, by his majesty's ship Leopard, off the coast of the United States.

Mr. Monroe requests that Mr. Canning would have the goodness to give him an early interview on that subject.

Mr. Monroe requests Mr. Canning to accept the assurances of his high consideration.

Portland Place, Sept. 1, 1807.

No. 11.

*From Mr. Canning. Foreign Office, Sept. 1, 1807.*

MR. CANNING presents his compliments to Mr. Monroe, and requests the honour of seeing him at the foreign office on Thursday next, at 12 o'clock.

Mr. Canning would have proposed to see Mr. Monroe to-morrow, if he had not been under the necessity of attending the levee and council at the queen's palace.

Mr. Canning requests Mr. Monroe to accept the assurances of his high consideration.

James Monroe, Esq. &c. &c. &c.

## No. 12.

*To Mr. Canning. Portland Place, Sept. 7, 1807.*

SIR,—By the order of my government it is my duty to request your attention to the aggression, lately committed on the peace and sovereignty of the United States by his Britannick majesty's ship of war *Leopard*, in an attack on an American frigate, the *Chesapeake*, off the capes of Virginia. The object of this communication is to obtain of his majesty's government a suitable reparation for that outrage, and such an arrangement of the great interest which is connected with it, as will place the future relations of the two powers on a solid foundation of peace and friendship.

In bringing this subject again to the view of his majesty's government, it is unnecessary to dwell on circumstances which are already so well known to you. By the documents, which I have the honour to transmit you, it is shown that while the outrage was unprovoked and unexpected on one side, there was nothing to extenuate it on the other. The commander of his majesty's squadron on the coast of the United States appears to have acted on a presumption, that he possessed the power to make war, and to decide on the causes of war. It will be difficult to explain the conduct of that officer on any other principle; and equally so to find an example of an aggression marked with such high indignity and injustice to a friendly power.

The pretext for this aggression could not fail to heighten the sense of injury which the act itself was so signally calculated to excite. My government was taught to infer from it, that there was no limit to a pretension which had already produced so much mischief, and against which so many remonstrances had been presented, in its application to merchant vessels. But I find with great satisfaction that this pretension forms no topick for discussion between us in respect to ships of war; and I trust that the just and enlightened policy, which produced the decision in one instance, will surmount the obstacle which has hitherto embarrassed it in the other.

The national character of the men, who were taken thus violently from on board the *Chesapeake*, makes no part of the question. It is impossible that it should come into



view in estimating the injury which the United States have received. The outrage involves a great and uncontested principle, which ought not, in any view, to be affected by appealing to national sensibilities on either side. I have however the honour to transmit you documents, which will, I presume, satisfy you that they were American citizens.

With respect to the reparation which my government ought to receive for this outrage, it will only be necessary to appeal to those sentiments which Great Britain would be sure to indulge, under like circumstances: to that sensibility to national honour, which has distinguished so many epochs of her history. It will be recollected that the injury, which in itself was great, was much aggravated by the circumstances which attended it: that the peaceful relations of the United States were violated, and their unsuspecting confidence surprised. But I forbear to recite details which it is painful to contemplate. You will, I am persuaded, be satisfied that in every light in which the subject can be seen, the honour of my government and of the whole nation has been greatly outraged by the aggression, and that it becomes the honour of his majesty's government to make a distinguished reparation for it.

In presenting, in this friendly manner, this important subject to the consideration of his majesty's government, I am particularly instructed to request its attention to the great cause to which this, and so many other injuries of a like kind may be traced; the impressment of men from the merchant vessels of the United States. In many essential circumstances, the objections which are applicable to impressments from ships of war, are equally applicable to those from merchant vessels. To the individuals, who suffer by the practice, the injury is the same in either case. Their claim on their government for protection is in both cases equal: every maxim of publick law, and private right, which is violated in one, is equally violated in the other. The relation of the belligerent to the neutral power extends to certain objects only, and is defined in each by known laws. Beyond that limit the rights of the neutral are sacred, and cannot be encroached on without violence and injustice. Is there a question of contraband, is the vessel destined to a blockaded port in violation of established principles, or does she contain enemies' property, the greatest extent to which the maritime law is car-

ried by any nation? In these cases, she is conducted to port for trial, the parties are heard by an impartial and responsible tribunal, and are heard again by appeal if they desire it. Are any of the passengers on board the neutral vessel in the naval or military service of the enemy? If such are found, they are made prisoners, but as prisoners they have rights which the opposite belligerent is bound to respect. This practice however looks to other objects than are here recited. It involves no question of belligerent on one side, and of neutral on the other. It pursues the vessel of a friend for an unlawful purpose, which it executes in a manner equally unlawful. Every commercial vessel of the United States that navigates the ocean is liable to be invaded by it, and not an individual on board any of them is secure while the practice is maintained. It sets up every officer of his majesty's navy as a judge, from whose decision there is no appeal. It makes him a judge, not of property, which is held more sacred, nor of the liberty of his fellow subjects only, however great the trust, and liable to abuse on the main ocean, but of that of the citizens of another power, whose rights as a nation are trampled on by the decision; a decision, in rendering which every rule of evidence is violated, as it puts the proof of innocence on the accused; and is further highly objectionable, as there is too much reason to believe that it has been often guided more by the fitness of the party for service than any other circumstance. The distressing examples of this system of aggression, as it has affected individuals, on a scale of vast extent, it is unnecessary to recount here. They may be easily imagined. Voluminous documents which prove them, are in the possession of both governments.

It is possible that this practice may in certain cases, and under certain circumstances, have been extended to the vessels of other powers; but with them there was an infallible criterion to prevent error. It would be easy to distinguish between an Englishman and a Spaniard, an Italian, or a Swede; and the clear and irresistible evidence of his national character, and perhaps of his desertion, would establish the British claim to the individual, and reconcile the nation into whose service he had entered, to his surrender. But the very circumstances which would constitute an infallible criterion in those cases, would be

sure to produce endless error in the other. Who is so skilful in physiognomy as to distinguish between an American and an Englishman, especially among those whose profession and whose sea-terms are the same? It is evident that this practice, as applied to a foreign nation, to any great extent, has grown out of the American revolution, and that it is impossible for the United States not to see in it the assertion of a claim which is utterly incompatible with that great event. When the character of this claim, and the pernicious tendency of the practice, are maturely weighed, it must furnish cause for surprise, that some just and friendly arrangement has not long since been adopted, to prevent the evils incident to it.

My government is aware that his majesty's government has also an interest of importance to attend to, in this delicate concern—and I am instructed to state, on its part, that the best disposition exists to provide for it. The United States are far from desiring to profit of a resource which does not belong to them, especially to the prejudice of a friendly power. In securing them against a practice, which is found to be so highly injurious to their dearest rights, and most valuable interests, every suitable provision will be made to give equal security to those of Great Britain. On this point I am authorized to enter into such an engagement as will, I am persuaded, be adequate to the object.

This great interest of impressment has been blended in all its relations, as you will perceive, by no act of the United States. Its connexion with the late disastrous incident has been produced by an extraordinary act of violence, of which they were the victims only. That act, which exhibits the pretension in its widest range, has become identified with the general practice, in the feelings and sympathies of the nation, and in the sentiment of the government. I trust, therefore, that his majesty's government will be equally disposed to take up the whole subject at this time, and in making the reparation which the particular injury claims, provide a remedy for the whole evil. My government looks to this complete adjustment with confidence, as being indispensably necessary to heal the deep wound which has been inflicted on the national honour of the United States, by so great and unjustifiable an outrage.

I avail myself, with great satisfaction, of the opportunity, which this communication affords, to acknowledge the prompt assurance which you gave me of the disposition of his majesty's government to make a suitable reparation to the government of the United States for the injury, of which, by its order, it is now my duty to complain; and for the frank disavowal of the pretension on which it was founded. I hastened to transmit copies of those documents to my government, by whom, I trust, they are by this time received.

I have the honour to be, &c.

JAMES MONROE.

The Rt. Hon. Geo. Canning, &c. &c. &c.

*Mr. Monroe to Mr. Canning.*

MR. MONROE presents his compliments to Mr. Canning, and has the honour to inform him that he called at his office yesterday, for the purpose of making some remarks on the subject treated in the note which he addressed on the instant to Mr. Canning. Mr. Monroe regrets that he had not the pleasure of seeing Mr. Canning at that time, and requests that he will be so good as to give him an interview to-morrow, at such hour as may be most convenient to him. Mr. Monroe will be happy to attend Mr. Canning in the country, should it be more agreeable to Mr. Canning to receive him there.

Portland Place, Sept. 9, 1807.

*From Mr. Canning, in Answer.*

MR. CANNING presents his compliments to Mr. Monroe, and will be happy to have the honour of seeing him at the foreign office to-morrow at 12 o'clock.

Mr. Canning has but this minute received Mr. Monroe's note.

Burlington House, Wednesday,

Sept. 9, 1807,  $\frac{3}{4}$  p. 8, P. M.

## DUPLICATE.

No.

*London, September 16, 1807.*

SIR,—I had the honour to receive your letter of July 6th, by Dr. Bullus, on the 31st ultimo, and did not lose a moment in entering on the business communicated to me by it, in the manner which seemed most likely to obtain success. The details shall be communicated to you in my next despatch. All that I can state at present is, that the whole subject has been placed fully before this government, in as strong an appeal to its interest and judgment as I could make, and that as a week has elapsed since my official note was presented, I am in daily expectation of receiving its decision on it. The moment is in many views very favourable to a satisfactory result, but still it is not in my power, from any thing that has occurred, to speak with confidence of it. The joint negotiation, committed to Mr. Pinckney and myself, was suspended by the intelligence of the affair with our frigate, and has never been revived since. That intelligence reached this about a week after Mr. Purviance, so that we had only been able, with the utmost diligence, to take the preliminary step of presenting to Mr. Canning, in conformity to our instructions, a project, and of explaining to him, in the most minute and comprehensive manner that we could, every circumstance appertaining to it. No answer was given to our communication; the suspension therefore of the negotiation was imputable to Mr. Canning: had he answered our communication, and proposed to proceed in the negotiation, it would have become a question for the commission to have decided, how far it would have been proper under existing circumstances to comply with the invitation; his silence however relieved us from that dilemma.

Permit me to present to you Mr. Jos. A. Smith, of South Carolina, and to refer you to him for much information, of a general nature, on the subject of our affairs with this country. Having been long in Europe, and visited almost every part, he possesses great information of the political state of its several powers, especially of

Russia, from whose sovereign he received very distinguished marks of attention. In much communication which I have had with Mr. Smith for a year past, I have found him to be animated with strong sentiments of patriotism towards his country, and as he has expressed a desire of being personally known to the President and yourself, I have been happy to promote his object by giving him this introduction.

I am with great respect, &c.

JAMES MONROE.

P. S. A copy of my note to Mr. Canning is enclosed.

James Madison, Secretary of State.

No. 16.

*From Mr. Canning. Foreign Office, Sept. 23, 1807.*

SIR,—I have laid before the king my master, the letter which I had the honour to receive from you on the 8th of this month.

Before I proceed to observe upon that part of it, which relates more immediately to the question now at issue between our two governments, I am commanded, in the first instance, to express the surprise which is felt at the total omission of a subject, upon which I had already been commanded to apply to you for information, the proclamation purported to have been issued by the President of the United States. Of this paper, when last I addressed you upon it, you professed not to have any knowledge, beyond what the ordinary channels of publick information afforded, nor any authority to declare it to be authentick.

I feel it an indispensable duty to renew my inquiry on this subject. The answer which I may receive from you is by no means unimportant to the settlement of the discussion, which has arisen from the encounter between the Leopard and the Chesapeake.

The whole of the question arising out of that transaction, is in fact no other than a question as to the amount of reparation due by his majesty for the unauthorized act of his officer: and you will, therefore, readily perceive that, in



so far as the government of the United States have thought proper to take that reparation into their own hands, and to resort to measures of retaliation, previously to any direct application to the British government, or to the British minister in America, for redress, in so far the British government is entitled to take such measures into account, and to consider them in the estimate of reparation which is acknowledged to have been originally due.

The total exclusion of all ships of war belonging to one of the two belligerent parties, while the ships of war of the other were protected by the harbours of the neutral power, would furnish no light ground of complaint against that neutral, if considered in any other point of view, than as a measure of retaliation for a previous injury : and, so considered, it cannot but be necessary to take it into account in the adjustment of the original dispute.

I am therefore distinctly to repeat the inquiry, whether you are now enabled to declare, sir, that the proclamation is to be considered as the authentick act of your government? And, if so, I am further to inquire, whether you are authorized to notify the intention of your government to withdraw that proclamation, on the knowledge of his majesty's disavowal of the act which occasioned its publication?

The light in which you are directed to represent admiral Berkeley's conduct, and the description which you give of the character of the measure imputed to him,—that "he acted as if he had the power to make war, and to decide the causes of war," sufficiently evince the necessity of comprehending in this discussion all the circumstances which have led to, or have followed the action with the Chesapeake.

Undoubtedly the attack upon a national ship of war is an act of hostility, and the very essence of the charge against admiral Berkeley, as you represent it, is the having taken upon himself to commit an act of hostility without the previous authority of his government.

The provocation, which may have led to such an act, without such previous authority, if it cannot justify, may possibly extenuate it; as the steps which have been taken in reprisal, though they cannot alter the character of the original act, may and do materially affect every question concerning the reparation claimed for it.

On this ground it is, that, while I am commanded to repeat to you (what you consider as so satisfactory) that the general and unqualified pretension to search ships of war for deserters, is not asserted by this country, "I am precluded from concurring in the inference, that therefore the national character of the men, who were violently taken from on board the Chesapeake, makes no part of the present question."

If the right to search ships of war for deserters is not insisted upon by this country, it is not because the employment and the detention of British mariners on board the national ship of any state are considered as less injurious towards Great Britain than their employment on board of merchant vessels (a proposition which would be manifestly absurd :) it is not intended to allow that the sailors of Great Britain may be justly employed, against her consent, in foreign ships of war ; but merely that redress is, in that case, to be sought for by government from government, and not to be summarily enforced by the unauthorized officer of any of his majesty's ships of war.

It follows from this reasoning, that not only the "national character" of the men taken out of the Chesapeake is matter for consideration ; but that the reparation to be made by the British government to that of the United States would depend, among other circumstances, on the question, whether an act, which the British government would be justified in considering as an act of hostility, had been committed by the government of the United States, (in refusing to discharge the British seamen in their national service) previously to commission of an act of hostility of an officer of his majesty.

The act of the British officer would still be an unauthorized act, and as such liable to complaint and disapprobation ; but the case, as between government and government, would be materially varied.

At the same time that I offer to you this explanation of the principles, upon which his majesty has authorized me to discuss with you the subject of your representation, and that I renew to you the assurances of the disposition to conduct that discussion in the most amicable form, and to bring it to a conclusion satisfactory to the honour and to the feelings of both countries, it is matter of regret, that you should have been instructed to annex to the demand

of reparation, for the attack of the *Leopard* upon the Chesapeake, any proposition whatever respecting the search for British seamen in merchant vessels; a subject, which is wholly unconnected with the case of the *Leopard* and the Chesapeake, and which can only tend to complicate and embarrass a discussion, in itself of sufficient delicacy and importance.

In stating the grounds, upon which your government expect with confidence that "the whole subject of impressment shall be taken up at this time," and that in making the reparation, which is claimed for the particular injury alleged to have been sustained by the United States in the late unfortunate transaction off the capes of Virginia, "a remedy shall be provided for the whole evil," you appear to have been directed to assume that this act of violence (such as you describe it) is the natural and almost necessary result of the practice of impressment of British seamen from the merchant vessels of other states, and to represent the particular transaction and the general question of impressment, as "identified in the feelings and sympathies of your nation, as well as in the sentiment of your government."

With every attention due to the feelings of the people of the United States, I am sure you will readily allow that those feelings cannot properly be considered as affecting the merits of the case.

The first ebullitions of national sensibility may very naturally have communicated an impulse to the proceedings of the American government, but it cannot be expected, that they should guide the deliberate opinions and conduct of the government with which you have to treat. I would farther observe to you, that your government cannot reasonably claim any advantage in argument from the expressed sense of its own people, unless it be prepared at the same to take upon itself a responsibility (which there is no desire of attributing to it) for the outrage and indecency, with which, upon the late occasion, that expression has in too many instances been accompanied. It is better for temperate reasoning, and assuredly it is more advantageous for the government of the United States, that the consideration of popular feeling should be wholly omitted in this discussion.

The right and the practice, of which you are instructed to complain, as irreconcilable with justice, and intolerable in all their parts, have been exercised by Great Britain from the earliest ages of the British naval power, even without any qualification or exception in favour of national ships of war.

The grounds upon which such a distinction has been admitted in later times, and upon which, for the course of nearly a century, the crown has forborne to instruct the commanders of its ships of war to search foreign ships of war for deserters, I have already had the honour to explain to you :—And you will have perceived that those grounds are wholly inapplicable to ships in the merchant service.

That a foreign power will not, knowingly, retain in its national service mariners, the natural born subjects of his majesty, who have been recalled by publick proclamation, may be regarded as a presumption arising out of the hostile nature of the act, and out of the probable consequences to which such an act of hostility must lead.

But with respect to merchant vessels, there is no such presumption.

When mariners, subjects of his majesty, are employed in the private service of foreign individuals, under private civil contracts, the king's subjects, and the foreign individuals with whom they serve, enter into engagements inconsistent with the duty of his majesty's subjects towards him; but to those engagements the government of the foreign nation has not made itself a party.

In such cases, the species of redress, which the practice of all times has admitted and sanctioned, is that of taking those subjects at sea out of the service of such foreign individuals, and recalling them to the discharge of that previous and paramount duty which they owe to their sovereign and to their country.

That the exercise of this right involves some of the dearest interests of Great Britain, your government is ready to acknowledge, and has accordingly authorized you to propose certain regulations, which you apprehend would be equivalent in their effect for the preservation of the interests concerned.

There will be no indisposition here to entertain, at a proper time, the discussion of such proposed regulations. But when you recollect, that many proposals to this effect

have already been brought forward, and have been found wholly inadmissible, when you have, yourself, recently had occasion to experience the difficulty of framing any satisfactory arrangement upon the subject, with all the anxiety which is properly felt by both governments for the speedy adjustment of the difference between them, and for the "healing of that deep wound which you state to have been inflicted on the national honour of the United States," surely it is not well advised to make the termination of that difference, and the healing that wound, dependant wholly on the complete success of an attempt, which has already been made so often, and which has hitherto uniformly failed.

Your own reasoning shows that you are aware of the more than ordinary difficulty, which must attend any arrangement for the prevention of desertion between two nations, whose similarity of manners and habits, and whose identity of language, interpose so many impediments to the discrimination of "national character."

To these circumstances, and not (as you almost seem to insinuate) to any peculiar harshness towards the United States, it is owing, that the exercise of this right, as with respect to them, is necessarily more frequent, than with respect to any other nation, and is felt by them to be more rigid and vexatious. But these circumstances cannot furnish an argument for the suspension of the exercise of the right with respect to America, unless it be contended, that multiplicity of frauds and difficulty of detection are reasons against suspicion, or motives for acquiescence.

As little foundation is there for the complaint, that the practice has grown out of the recognition of American independence, and that the character of that event is affected by its continuance.

It is needless to repeat, that these rights existed in their fullest force for ages previous to the establishment of the United States of America as an independent government ; and it would be difficult to contend, that the recognition of that independence can have operated any change in this respect, unless it can be shown that, in acknowledging the government of the United States, Great Britain virtually abdicated her own rights as a naval power, or unless there were any express stipulations, by which the ancient and prescriptive usages of Great Britain, founded in the sound-

est principles of natural law, though still enforced against other independent nations of the world, were to be suspended whenever they might come in contact with the interests or the feelings of the American people.

I would now recall your attention to the consideration of the question respecting the late transaction between the Leopard and the Chesapeake, which, till the receipt of your letter, I imagined to be the only question actually in discussion between us, and in consideration of the delicacy and pressing importance of which, we had, by common consent, waved the consideration of all other matters pending between our two governments.

Into the discussion of this question I am prepared to enter ; with what disposition, on the part of his majesty's government, to consult the feelings and the honour of the government of the United States, it is not necessary for me here to declare—for you have yourself done justice to the sincerity of that disposition.

The difficulties in the way of such adjustment are already smoothed by the disavowal, voluntarily offered, at the very outset of the discussion, of the general and unqualified pretension to search ships of war for deserters. There remained only to ascertain the facts of the particular case, and to proportion the reparation to the wrong.

Is the British government now to understand, that you, sir, are not authorized to enter into this question separately and distinctly, without having obtained, as a preliminary concession, the consent of this country to enter into discussion with respect to the practice of searching merchant vessels for deserters ?

Whether any arrangement can be devised, by which this practice may admit of modification, without prejudice to the essential rights and interests of Great Britain, is a question, which, as I have already said, the British government may, at a proper season, be ready to entertain : but, whether the consent of Great Britain to the entering into such discussion shall be extorted as the price of an amicable adjustment, as the condition of being admitted to make honourable reparation for an injury, is a question of quite a different sort, and one which can be answered no otherwise than by an unqualified refusal.

I earnestly recommend to you, therefore, to consider, whether the instructions which you have received from



your government may not leave you at liberty to come to an adjustment of the case of the *Leopard* and the *Chesapeake*, independently of the other question, with which it appears to have been unnecessarily connected.

If your instructions leave you no discretion, I cannot press you to act in contradiction to them. In that case there can be no advantage in pursuing a discussion, which you are not authorized to conclude; and I shall have only to regret, that the disposition of his majesty to terminate that difference amicably and satisfactorily, is for the present rendered unavailing.

In that case, his majesty, in pursuance of the disposition of which he has given such signal proofs, will lose no time in sending a minister to America, furnished with the necessary instructions and powers for bringing this unfortunate dispute to a conclusion, consistent with the harmony subsisting between Great Britain and the United States. But, in order to avoid the inconvenience which has arisen, from the mixt nature of your instructions, that minister will not be empowered to entertain, as connected with this subject, any proposition respecting the search of merchant vessels.

It will, however, be far more satisfactory to his majesty to learn, that, upon reconsideration, you think yourself authorized to separate the two questions.

I hope you will allow me to express, at the same time, the sincere pleasure which I should feel in having to treat with you, sir, personally, for the re-establishment of a good understanding between our two countries.

I have the honour to be, &c.

GEORGE CANNING.

*Portland Place, Sept. 29, 1807.*

SIR,—I have had the honour to receive your letter of the 23d of this month, and shall transmit it without delay to my government.

I perceive by it, with great regret, that his Britannick majesty's government is not disposed to enter into an arrangement, at this time, of all the differences that have arisen between our governments, respecting the impressment of seamen from American vessels by British cru-

sers ; that it is willing to look to one object only, the late aggression, and provide for it, while the other is left to depend on future adjustment. My government had presumed, that his majesty's government would have seen, in the recent and greater injury, a strong motive for bringing the whole subject into one view, and providing for it at the same time. The excess of the latter outrage could not fail to revive in the mind of the suffering party a high sense of former injuries ; and it was reasonable to infer, that the great injustice inseparable from the practice, of which the incident furnished so striking an example, would have produced between our governments the most prompt and friendly co operation in the means of suppressing it. That the United States have suffered a greater injury by a recent occurrence, than they had done before, cannot be a good reason, and ought not to be a motive for delaying redress of the others, especially when it is considered, that they were already in a train of amicable accommodation and arrangement. Since, however, you inform me that his majesty's government is unwilling to take up the subject in a combined view, it is unnecessary for me to press it.

You ask, whether I am authorized to separate this latter incident from the general practice, and to treat it as a distinct topick? On this point I have to state, that my instructions, which are explicit, enjoin me to consider the whole of this class of injuries as an entire subject ; and indeed so intimately are they connected in their nature, that it seems to be difficult, if not impossible, to separate them for any useful purpose to either party. My government, being sincerely desirous to place the relations of the two powers on the solid basis of permanent friendship, is satisfied, as well by what has occurred in the general practice, as by the more awful admonition derived from the late incident, that that can only be done with effect by mounting to the source of the evil, and providing an adequate remedy for it. In pursuing this great object, it is my duty to repeat, that my government does not seek to confine the remedy proposed to the injuries, which the United States have suffered, and continue to suffer, but is desirous to extend it to those also which are complained of by Great Britain. Experience has shown that both parties complain of injuries, though certainly of a very

different character and less urgent nature. How much more advisable then is it not, in every view, for them to enter into an arrangement, which shall provide an adequate remedy for their respective injuries, which shall bind the honour of each government to do what is just and right in respect to the other, and enlist the feelings of each nation on its side, than to suffer things to remain longer in their present state? How much more advantageous would not such an arrangement be likely to prove to Great Britain, in the particular object which she has in view, than her adherence to a practice which rejects a mean which could not fail to be more productive; a practice which cannot be maintained in principle; which leads by immutable causes, that ought to inspire different sentiments in the parties to each other, to great and constant abuse, and which is also considered by the United States as subversive of their rights, and degrading to their character as an independent power?

So much I have thought it proper to state, in order to place in a just light the conduct of my government on the present occasion, on this great and very interesting subject of impressment. Well knowing its desire to cultivate the most friendly relations with Great Britain, on just and honourable conditions, it would be highly improper that any doubt should be suffered to exist on that point.

You inform me, that his majesty has determined, in case my instructions do not permit me to separate the late aggression from the general practice of impressment, to transfer the business to the United States, by committing it to a minister who shall be sent there with full powers to conclude it. To that measure I am far from being disposed to raise any obstacle, and shall immediately apprise my government of the decision to adopt it. Under such circumstances, I perfectly agree with you in the opinion, that it would be useless to pursue a discussion, which it would be impossible for me to bring to a satisfactory conclusion.

It is still my duty to give the explanation, which you have desired, of the motives which induced the President to adopt the measures announced in his proclamation of the 2d July last. However great the injury which the United States had received by the aggression complained of, it is

just that it should be shown, that the President did not lose sight in those measures of the friendly relations subsisting between the two powers. When the hostile nature of the attack on the Chesapeake is taken into view, and the general conduct of the British squadron within the waters of the United States, before and after the attack, I am persuaded that there was no limit, to which the President would not have been justified in going, which he might have thought essential to the honour and safety of the nation. Before the attack, the British squadron had violated the jurisdiction of the United States by the impressment of men within it, whom the commander had refused to surrender; and after the attack, the attitude which he assumed continued to be of a very menacing and hostile character. An act of hostility, it must be admitted, justifies any act of a like nature towards the party who commits it. The President, however, did not believe that his majesty's government had authorized the conduct of the British squadron, and his measures were evidently founded on that belief. They were marked by no circumstance of hostility, or of retaliation towards Great Britain; but were intended simply to preserve order within the jurisdiction of the U. States, to which end the removal of the British squadron without their limits became indispensable. After the acts of violence which had been committed by that squadron, it was impossible that it should remain longer there without increasing the irritation and widening the breach between the two nations, which it was the earnest object of the President to prevent. There certainly existed no desire of giving a preference in favour of the ships of war of one belligerent party to those of another. Before this aggression, it is well known, that his Britannick majesty's ships lay within the waters of the Chesapeake, and enjoyed all the advantages of the most favoured nation; it cannot therefore be doubted that my government will be ready to restore them to the same situation, as soon as it can be done consistently with the honour and rights of the United States.

I cannot conclude this communication without expressing my earnest hope, that the differences which have unhappily arisen between our governments may soon be settled, on conditions honourable and satisfactory to both the parties. To have co-operated with you in the accomplishment

of so great and useful a work, would have been highly gratifying to me. The disposition which you have brought to the discussion, and the sentiments which you communicated on the principal transaction, when the first intelligence of it was received, have inspired me with great confidence, that we should soon have been able to bring it to such a conclusion. To have been a party to it, would have terminated my mission to his majesty in the mode which I have long and sincerely desired.

I have the honour to be, &c.

JAMES MONROE.

The Right Hon. George Canning, &c. &c. &c.

*To Mr. Canning. Portland Place, Oct. 9, 1807.*

MR. MONROE presents his compliments to Mr. Canning, and requests that he will be so good as to inform him, whether it is intended, that the minister, whom his majesty proposes to send to the government of the United States, shall be employed in a special mission without having any connexion immediate or eventual with the ordinary legation. Mr. Monroe has inferred from Mr. Canning's note, that the mission will be of the special nature above described, but he will be much obliged to Mr. Canning to inform him, whether he has taken a correct view of the measure. Mr. Monroe would also be happy to know of Mr. Canning at what time it is expected the minister will sail for the United States. Mr. Canning will be sensible that Mr. Monroe's motive in requesting this information is, that he may be enabled to communicate it without delay to his government, the propriety of which, he is persuaded, Mr. Canning will readily admit.

Mr. Monroe requests Mr. Canning to accept the assurance of his high consideration.

The Right Hon. George Canning, &c. &c. &c.

*From Mr. Canning. Foreign Office, Oct. 10, 1807.*

MR. CANNING presents his compliments to Mr. Monroe, and in acknowledging the honour of his note of yesterday, has great pleasure in assuring him that he is at all times

ready to answer any inquiries to which Mr. Monroe attaches any importance, and which it is in Mr. Canning's power to answer with precision, without publick inconvenience. But it is not in Mr. Canning's power to state with confidence what may be the *eventual* determination of his majesty in respect to the permanent mission in America. The mission of the minister whom his majesty is now about to send will certainly be limited *in the first instance* to the discussion of the question of the Chesapeake.

James Monroe, Esq. &c. &c. &c.

TRIPLICATE.

*London, October 10, 1807.*

SIR,—I have the honour to transmit you, by doctor Bul-  
lus, a copy of my correspondence with Mr. Canning on  
the subject which was committed to my care by your let-  
ter of the 6th of July last. You will find by it, that the  
pressure which has been made on this government, in obe-  
dience to the instruction contained in that letter, has ter-  
minated in a decision to send a minister to the United  
States, to adjust the business there. What the powers of  
that minister will be; whether it is intended to confine  
them to the sole object of reparation for the special out-  
rage, or to extend them, in case the proposed separation  
of that from the general topick of impressment is admitted,  
to the latter object, it is not in my power to state. Mr.  
Canning has given me no information on that head in con-  
ference, and his note is not explicit on it. It states that  
the minister who shall be sent to the United States, to  
bring the dispute relative to the attack on the Chesapeake  
to a conclusion, shall not be empowered to entertain, as  
connected with that subject, any proposition respecting  
the search of merchant vessels—a presumption is autho-  
rized by those terms, that the minister will have power to  
treat on the general topick after the special one is ar-  
ranged. But it is possible that that presumption may  
have been raised for some other purpose, or that the  
terms which excited it were introduced merely to convey  
the idea that the mission should be confined to the special  
object.



In the discharge of this delicate and important trust, I thought that I should be able more effectually to promote its object by opening the subject to Mr. Canning in conference, than by an official note. As the attitude taken by my government, which was evidently supported by the whole nation, was of a very impressive nature, it seemed probable from the feverish state of the publick mind here in regard to us, that a tone of conciliation, which should not weaken the pressure, would be more likely to succeed in obtaining the reparation desired, than an official and peremptory demand. Under this impression, I had several conferences with Mr. Canning, the substance of which, in each, I will endeavour to state with precision. A knowledge of what passed in these interviews, in aid of that which is afforded by the correspondence, will enable you to form the most correct idea of the object of the proposed mission. that present circumstances will admit of.

The first interview was on the 3d of September, as soon as it could be obtained after the receipt of your letter of July the 6th, which was on the 30th of August. I informed Mr. Canning, that, as I wished the discussion, in which we were about to enter, to terminate amicably and honourably to both our governments; I had asked the interview for the purpose of promoting that desirable end; that by explaining to each other fully, in friendly conference, the views of our respective governments, relative to the late aggression, I was persuaded that it would be more easy for us to arrange the business to the satisfaction of both parties, than by any other mode which we could pursue. He expressed his sensibility to that which I had chosen, and his readiness to concur in it. I then stated in detail, in explicit terms, the reparation which my government thought the United States entitled to, and expected that they should receive, for the injury and indignity offered by the late aggression; that the men taken from the frigate should be restored to it; that the officers who had committed the aggression should be exemplarily punished; that the practice of impressment from merchant vessels should be suppressed; and that the reparation consisting of those several acts should be announced to our government through the medium of a special mission, a solemnity which the extraordinary nature of the aggression particularly required. I observed that as the aggression and

the principle on which it was founded had been frankly disavowed, as soon as known, by his government, I was persuaded that there could be no serious objection on its part to any of the acts which it was desired should constitute the proposed reparation: that to the first act, the restoration of the men, there could doubtless be none, as the least that could be done, after such an outrage, would be to replace the United States, as far as it might be practicable, on the ground they held before the injury was received: that the punishment of the officers followed, as a necessary consequence, to the disavowal of the act: that the suppression of the practice of impressment from merchant vessels had been made indispensable by the late aggression, for reasons which were sufficiently well known to him. I stated to him that the mode in which it was desired that the reparation should be made, by a special mission, was that which had been adopted by other powers and by Great Britain herself, for injuries less severe than the one alluded to, of which I gave him the examples furnished me in your letter of July 6th.—Mr. Canning took a note of what I had stated, and made some general remarks on the whole subject, which were intended to give his view of it on each point, but without compromising himself in a positive manner on any one. He said that, by the proclamation of the President, and the seizure and detention of some men who had landed on the coast to procure water, the government seemed to have taken redress into its own hands; he complained of the difference which he said we had made between France and England, by restoring deserters to the vessels of the former, and not the latter: he insisted that the late aggression was an act different in all respects from the former practice, and ought not to be connected with it, as it showed a disposition to make a particular incident, in which they were in the wrong, instrumental to an accommodation in a case where his government held a different doctrine. I urged in reply, that the proclamation could not be considered as an act of hostility or retaliation for injuries, though the aggression had provoked and would have justified any, the strongest, act of reprisal, but as a mere measure of police, which had become indispensable for the preservation of order within the limits of the United States; I informed him that the men who had landed from

the squadron, in defiance of the proclamation, and of the law on which it was founded, had been restored to it: that with respect to the other point, the difference said to be made in the case of deserters from British and French ships, I was unacquainted with the fact, but was satisfied, if the statement was correct, that the difference was imputable to the local authorities, and not to the national government, because, as the United States were not bound by treaty to restore deserters from the service of either nation, it was not presumable that their government would interfere in the business. I observed, however, that, if such a preference had been given, there was a natural and justifiable cause for it, proceeding from the conduct of the squadrons of France and England, on the coast of the United States, and on the main ocean, it being a well known fact that the former did not maintain as a right or adopt in practice the doctrine of the latter, to impress seamen from our merchant vessels. I then discussed at length, and urged with great earnestness the justice and policy of his terminating at this time all the differences which had arisen between our governments from this cause, by an arrangement which should suppress the practice on the part of Great Britain, and remedy the evil of which she complained.

In aid of those reasons which were applicable to the merits of the question, I urged the example given by the late ministry, in the paper of November 8th, presented to Mr. Pinckney and myself, by the British commissioners, which had, as I thought, laid the foundation of such an arrangement. I stated that as it was stipulated by that paper, that the negotiation should be kept open for the purpose of arranging this great interest, without prejudice to the rights of either power, it was fairly to be understood as the sense of both parties, that our rights were to be respected, till that arrangement was concluded; whence it would follow that the same effect would be produced in practice, as if it had been provided for by treaty. I relied on this paper and the construction which I thought it admitted, with which, however, the practice had since in no degree corresponded, to show the extent to which the former ministry had gone in meeting the just views of our government, and thereby to prove that the present ministry in improving that ground had nothing to apprehend

from the preceding one. Mr. Canning admitted that the view which I had taken of this paper derived much support from its contents, and the time and circumstances under which it was presented, but persisted in his desire to keep the subjects separate. I proposed, as an expedient to get rid of his objection, that we should take up and arrange both points informally, in which case, provided it was done in a manner to be obligatory, I offered to frame my note, which should demand reparation for the outrage, in general terms, so as that it should not appear by official document, that the subjects had any connexion in the negotiation. I urged that unless it was intended to make no provision against impressment from merchant vessels, I could see no objection to his meeting me on that ground, as, after what had passed, it was impossible to take up either subject without having the other in view, and equally so to devise any mode which should keep them more completely separate, than that which I proposed. Mr. Canning still adhered to his doctrine of having nothing to do with impressment from merchant vessels, till the affair of the Chesapeake was disposed of, after which he professed his willingness to proceed to the other object. In this manner the conference ended, without having produced the arrangement which I had hoped from it. Mr. Canning's conduct was in all other respects conciliatory.

My note to Mr. Canning was founded on the result of this conference. As it had not been in my power to come to any agreement with him on the general subject of impressment from merchant vessels, I considered it my duty to combine it with the affair of the Chesapeake, in the paper which I presented him to claim reparation for the outrage. I thought it best, however, to omit the other acts, of which it was desired that the reparation should consist. It seemed probable that a specification of each circumstance, in the note, would increase the indisposition of the ministry to accommodate, and give it support with the nation, in a complete rejection of the demand. I expressed myself, therefore, in regard to the other acts, in general and conciliatory terms, but with all the force in my power. The details had been communicated to Mr. Canning in conference too recently to be forgotten. Still it was just that no improper inference should be drawn.

from the omission of them. To prevent it, I obtained an interview of Mr. Canning immediately after my note was presented, in which, after reminding him of the omission alluded to, the motive to which I presumed he could not mistake, I added that my object in asking the interview had been to repeat to him informally, what I had stated in the former one, the other acts of which my government expected that the reparation should consist. In this interview nothing occurred without the limit of the special object for which it had been obtained. Mr. Canning did not lead the conversation to any other topick, and I could not invite it.

Mr. Canning's answer to my note was delayed more than a fortnight. Having refused to treat the subjects in connexion, and intimated in plain terms that if I was not authorized to separate them, it would be useless to prolong the discussion, I thought it improper to press it. My reply was equally explicit, so that with it the negotiation ended. The measure which he announced, as being determined on by the king, in case I could not agree to the separation, is completely the act of his government. You will observe that it is announced in a form which precludes, in a great degree, the idea of its being adopted at my suggestion, as an act of reparation, and in a tone of decision which seemed equally to preclude my holding any communication with him on it.

My mission being thus brought to an end, has afforded an opportunity for me to return to the United States, as I have long desired. Nothing but the great interest which I take in the welfare of my country, and my earnest desire to give all the aid in my power to the present administration, in support of the pure principles of our most excellent constitution, would have detained me here so long. In the present state, however, it is not possible, if in any it would be, for me to render any service by a longer continuance here. As soon, therefore, as I had answered Mr. Canning's note, I communicated to him my intention to return, and requested that he would be so good as to obtain for me an audience of the king for the purpose of taking my leave of him. This was granted on the 7th of this month, in which I renewed the assurance of the sincere desire of my government to pre-



serve the most friendly relation between the United States and Great Britain, which sentiment was reciprocated by his majesty. Mr. Pinkney succeeds me by an arrangement with Mr. Canning, which will appear in the enclosed copy of my correspondence with him, and which I have full confidence the President will approve. I regret that in transferring the business into his hands, I do not leave him altogether free from difficulty.

I have the honour to be, &c.

JAMES MONROE.

James Madison, Esq. Secretary of State.

P. S. Not being satisfied with the undefined character of the proposed mission to the United States, and Mr. Canning having communicated nothing new to me on the subject, in my interview with him on the day I was presented to the king, although an opportunity was offered for the purpose, I wrote him a note after the commencement of this letter, to make certain inquiries on that head, a copy of which note, and of his answer, is herewith enclosed. You will observe that he still holds himself aloof on it. I thought it my duty, and that it comported with strict delicacy, to make the inquiry, and I cannot but consider his reserve as affording cause for an unfavourable inference. It is probable, however, as the door is left open for further communication between us till the moment of my departure, that he will take some other occasion to explain himself more fully on the subject. You may be assured that I will seek every favourable opportunity to obtain such explanation from him.

*From Mr. Canning. Foreign Office, Oct. 22, 1807.*

SIR,—Having seen in the American newspapers an official article (of which I have the honour to enclose a copy) prohibiting all intercourse between the inhabitants of the United States, and his majesty's ships of war *universally*, I have the honour to request that you will have the goodness to inform me, whether this prohibition will extend to the ship of war, in which a minister accredited from his majesty, and charged with a mission to the American government, shall arrive in any of the ports of the United



States? or whether you, or Mr. Pinkney, can undertake to furnish Mr. Rose with such documents, as shall ensure his admission into the American ports, and a reception therein, suitable to the character with which he is invested?

I have the honour to be, &c.

GEORGE CANNING.

James Monroe, Esq. &c. &c. &c.

*To Mr. Canning. Portland Place, Oct. 23, 1807.*

SIR,—I have the honour to state, in reply to your letter of yesterday, that the case to which you alluded is specially provided for by the proclamation of the President. You will observe, on a view of that document, that an exception is made, from the prohibition it contains on other vessels, in favour of such ships of his majesty as may enter the ports of the United States with despatches from his majesty's government. Had the case of a publick minister, employed in a special mission to my government, not been comprised in that exception, as it clearly is, I have no hesitation in stating that he would be received without delay at any port at which he might arrive. I have the honour to add, that Mr. Pinkney and myself will be happy to give to his majesty's minister every facility in our power to secure him the reception at the port of his destination which is due to his publick character, and promote his speedy arrival at the seat of the government of the United States.

I have the honour to be, &c.

JAMES MONROE.

The Right Hon. George Canning, &c. &c. &c.

*From Mr. Canning. Foreign Office, Oct. 23, 1807.  
Half Past 10, P. M.*

SIR,—I have to acknowledge the honour of your answer to my letter of yesterday evening. It appears to me to be so important to have a clear understanding on the subject, to which that letter refers, that I cannot forbear requesting you to have the goodness to call at the foreign office to-

morrow at two o'clock, if that hour should suit your convenience.

I have the honour to be, &c.

GEORGE CANNING.

James Monroe, Esq. &c. &c. &c.

*London, Oct. 28, 1807.*

SIR,—I have the honour to send you a copy of a correspondence with Mr. Canning, touching a difficulty, which he supposed Mr. Rose might experience in entering the bay of Chesapeake, in consequence of the proclamation of the President. In the interview invited by his last note, I expressed my surprise, that any doubt should exist on the subject of it, and assured him, that Mr. Pinkney and myself would be responsible for Mr. Rose's prompt admission into our harbours, and arrival at Washington, without suffering the slightest molestation; on the contrary, that he should receive every attention and facility on the route which he might require. I told him, that no document from us would be necessary for that purpose; but that, to put the question beyond all doubt, we would give him a passport, which should go to every object in detail, and that we would also give him letters of introduction to the governours of Maryland and Virginia, the states through which he would pass, to be taken advantage of, if he found that they would be useful. With this explanation and arrangement Mr. Canning was satisfied.

I also send you a copy of a letter from Mr. Rose, senior, and of my answer, relative to the mission of his son to the United States. Although Mr. Rose's letter is unofficial, I have thought it proper, in consideration of his near connexion with the minister, and station in the government, to communicate it.

I leave this to-morrow, to meet in the channel the *Augustus*, the ship in which I propose to sail with my family to the United States. She has left this port, and is on her way to Portsmouth, where she will receive us. Mr. Rose, by going in a frigate, will most probably arrive before me, and even before doctor Bullus. It is important that you should possess all the information which I can give respecting the business in which I have been lately engaged.

with Mr. Canning, and of Mr. Rose's mission, at the moment of his arrival. I have therefore thought it advisable to commit to him this letter, and a copy of my correspondence with Mr. Canning, as Mr. Pinkney and I have done our joint despatch. I expect to be at sea in a week from this date, and shall proceed to Washington immediately after my arrival in the United States, to communicate to you such further information as I may have, relative to the important concerns of our country in which I have been employed.

I have the honour to be, &c.

JAMES MONROE.

### No. III.

*Correspondence between Mr. Madison and Mr. Rose.  
Washington, Jan. 26, 1808.*

SIR,—Having had the honour to state to you, that I am expressly precluded by my instructions from entering upon any negotiation for the adjustment of the differences arising from the encounter of his majesty's ship *Leopard* and the frigate of the United States, the *Chesapeake*, as long as the proclamation of the President of the United States, of the 2d of July, 1807, shall be in force, I beg leave to offer you such farther explanation of the nature of that condition, as appears to me calculated to place the motives, under which it has been enjoined to me thus to bring it forward, in their true light.

In whatever spirit that instrument was issued, it is sufficiently obvious, that it has been productive of considerable prejudice to his majesty's interests, as confided to his military and other servants in the United States, to the honour of his flag, and to the privileges of his ministers accredited to the American government. From the operation of this proclamation have unavoidably resulted effects of retaliation and self-assumed redress, which might be held to affect materially the question of the reparation due to the United States, especially inasmuch as its execution has been persevered in after the knowledge of his majesty's early, unequivocal, and unsolicited disavowal of the unauthorized act of admiral Berkeley,—his disclaimer of the pretension exhibited by that officer to search the

national ships of a friendly power for deserters, and the assurances of prompt and effectual reparation, all communicated, without loss of time, to the minister of the United States in London, so as not to leave a doubt as to his majesty's just and amicable intentions. But his majesty, making every allowance for the irritation which was excited, and the misapprehensions which existed, has authorized me to proceed in the negotiation upon the sole discontinuance of measures of so inimical a tendency.

You are aware, sir, that any delay, which may have arisen in the adjustment of the present differences, is not imputable to an intention of procrastination on the part of his majesty's government; on the contrary, its anxiety to terminate as expeditiously as possible the discussion of a matter so interesting to both nations, has been evinced by the communication made by Mr. Secretary Canning to Mr. Monroe, before that minister of the United States was even informed of the encounter, and now by the promptitude with which it has despatched a special mission to this country for that express purpose.

I can have no difficulty in stating anew to you, with respect to the provisions of my instructions, calculated as they are to ensure an honourable adjustment of the important point in question, and to remove the impressions, which the late cause of difference may have excited in the minds of this nation, that I am authorized to express my conviction, that they are such as will enable me to terminate the negotiation amicably and satisfactorily.

Having learnt from you, sir, that it is solely as a measure of precaution, the provisions of the proclamation are now enforced, I must persuade myself, that a due consideration of his majesty's conduct in this transaction will remove as well any misapprehensions which may be entertained respecting his majesty's dispositions towards the United States, as the grounds upon which that enforcement rests, and the more so, as it has long been a matter of notoriety, that the orders issued to the officers of his majesty's navy, in his proclamation of the 16th October, 1807, afford ample security, that no attempt can again be made to assert a pretension, which his majesty from the first disavowed.

I may add, that if his majesty has not commanded me to enter into the discussion of the other causes of complaint,

stated to arise from the conduct of his naval commanders in these seas, prior to the encounter of the *Leopard* and the *Chesapeake*, it was because it has been deemed improper to mingle them, whatever may be their merits, with the present matter, so much more interesting and important in its nature; an opinion originally and distinctly expressed by Mr. Monroe, and assented to by Mr. Secretary Canning. But if, upon this more recent and more weighty matter of discussion, upon which the proclamation mainly and materially rests, his majesty's amicable intentions are unequivocally evinced, it is sufficiently clear, that no hostile disposition can be supposed to exist on his part, nor can any views be attributed to his government, such as, requiring to be counteracted by measures of precaution, could be deduced from transactions which preceded that encounter.

In offering these elucidations, I should observe, that the view in which I have brought forward the preliminary, which I have specified, is neither as to demand concession or redress, as for a wrong committed: into such the claim to a discontinuance of hostile provisions cannot be construed; but it is simply to require a cessation of enactments injurious in their effects, and which, if persisted in, especially after these explanations, must evince a spirit of hostility, under which his majesty could not authorize the prosecution of the present negotiation, either consistently with his own honour, or with any well founded expectation of the renewal or duration of that good understanding between the two countries, which it is equally the interest of both to foster and to ameliorate.

I have the honour to be, with the highest consideration, &c.

G. H. ROSE.

*Department of State, March 5, 1808.*

SIR,—I have had the honour to receive and lay before the President your letter of the 26th January, in which you state, that you are “expressly precluded by your instructions from entering upon any negotiation for the adjustment of the differences arising from the encounter of his Britannick majesty's ship *Leopard* and the frigate of



the United States, the Chesapeake, as long as the proclamation of the President of the 2d of July, 1807, shall be in force."

This demand, sir, might justly suggest the simple answer, that before the proclamation of the President could become a subject of consideration, satisfaction should be made for the acknowledged aggression which preceded it. This is evidently agreeable to the order of time, to the order of reason, and, it may be added, to the order of usage, as maintained by Great Britain, whenever in analogous cases, she has been the complaining party.

But as you have subjoined to the preliminary demand certain explanations, with a view doubtless to obviate such an answer, it will best accord with the candour of the President, to meet them with such a review of the whole subject, as will present the solid grounds on which he regards such a demand as inadmissible.

I begin with the occurrences from which the proclamation of July 2d resulted. These are in general terms referred to by the instrument itself. A more particular notice of the most important of them will here be in place.

Passing over, then, the habitual but minor irregularities of his Britannick majesty's ships of war, in making the hospitalities of our ports subservient to the annoyance of our trade, both outward and inward, a practice not only contrary to the principles of publick law, but expressly contrary to British ordinances enforced during maritime wars, to which she bore a neutral relation, I am constrained, unwelcome as the task is, to call your attention to the following more prominent instances.

In the summer of the year 1804, the British frigate the *Cambrian*, with other cruisers in company, entered the harbour of New York. The commander, captain Bradley, in violation of the port laws, relating both to health and revenue, caused a merchant vessel, just arrived, and confessedly within the limits and under the authority of the United States, to be boarded by persons under his command, who, after resisting the officers of the port, in the legal exercise of their functions, actually impressed and carried off a number of seamen and passengers into the service of the ships of war. On an appeal to his voluntary respect for the laws, he first failed to give up the offender



to justice, and finally repelled the officer charged with the regular process for the purpose.

This procedure was not only a flagrant insult to the sovereignty of the nation, but an infraction of its neutrality also, which did not permit a belligerent ship thus to augment its force within the neutral territory.

To finish the scene, this commander went so far as to declare, in an official letter, to the minister plenipotentiary of his Britannick majesty, and by him communicated to this government, that he considered his ship, whilst lying in the harbour of New York, as having dominion around her, within the distance of her buoys.

All these circumstances were duly made known to the British government, in just expectation of honourable reparation. None has ever been offered. Captain Bradley was advanced from his frigate to the command of a ship of the line.

At a subsequent period, several British frigates, under the command of captain Whitby, of the *Leander*, pursuing the practice of vexing the inward and outward trade of our ports, and hovering for that purpose about the entrance of that of New York, closed a series of irregularities with an attempt to arrest a coasting vessel, on board of which an American citizen was killed by a cannon ball, which entered the vessel, whilst within less than a mile from the shore.

The blood of a citizen thus murdered, in a trade from one to another port of his own country, and within the sanctuary of its territorial jurisdiction, could not fail to arouse the sensibility of the publick, and to make a solemn appeal to the justice of the British government. The case was presented moreover to that government by this, in the accent which it required; and with due confidence that the offender would receive the exemplary punishment which he deserved. That there might be no failure of legal proof of a fact sufficiently notorious of itself, unexceptionable witnesses to establish it were sent to Great Britain at the expense of the United States.

Captain Whitby was, notwithstanding, honourably acquitted; no animadversion took place on any other officer belonging to the squadron; nor has any apology or explanation been made since the trial was over, as a conciliatory offering to the disappointment of this country at such a result.

A case of another character occurred in the month of September, 1806. The *Impetueux*, a French ship of seventy four guns, when aground within a few hundred yards of the shore of North Carolina, and therefore visibly within the territorial jurisdiction and hospitable protection of the United States, was fired upon, boarded and burnt, from three British ships of war, under the command of captain Douglass. Having completed this outrage on the sovereignty and neutrality of the United States, the British commander felt no scruple in proceeding thence into the waters near Norfolk; nor in the midst of the hospitalities enjoyed by him, to add to what had passed a refusal to discharge from his ships impressed citizens of the United States, not denied to be such, on the plea, that the government of the United States had refused to surrender to the demand of admiral Berkeley certain seamen alleged to be British deserters; a demand which, it is well understood, your government disclaims any right to make.

It would be very superfluous to dwell on the features which mark this aggravated insult. But I must be permitted to remind you, that in so serious a light was a similar violation of neutral territory, by the destruction of certain French ships on the coast of Portugal, by a British squadron under the command of admiral Boscawen, regarded by the court of Great Britain, that a minister extraordinary was despatched for the express purpose of expiating the aggression on the sovereignty of a friendly power.

Lastly presents itself the attack by the British ship of war *Leopard*, on the American frigate *Chesapeake*, a case too familiar in all its circumstances to need a recital of any part of them. It is sufficient to remark, that the conclusive evidence, which this event added to that which had preceded, of the uncontrolled excesses of the British naval commanders, in insulting our sovereignty and abusing our hospitality, determined the President to extend to all British armed ships the precaution heretofore applied to a few by name, of interdicting to them the use and privileges of our harbours and waters.

This was done by his proclamation of July 2, 1807, referring to the series of occurrences, ending with the aggression on the frigate *Chesapeake*, as the considerations requiring it. And if the apprehension from the licentious

spirit of the British naval commanders, thus developed and uncontrolled, which led to this measure of precaution, could need other justification than was afforded by what had passed, it would be amply found in the subsequent conduct of the ships under the command of the same captain Douglass.

This officer, neither admonished by reflections on the crisis produced by the attack on the *Chesapeake*, nor controlled by respect for the law of nations, or the laws of the land, did not cease within our waters to bring to, by firing at, vessels pursuing their regular course of trade; and in the same spirit which had displayed itself in the recent outrage committed on the American frigate, he not only indulged himself in hostile threats, and in indications of a hostile approach to Norfolk, but actually obstructed our citizens in the ordinary communication between that and neighbouring places. His proceedings constituted, in fact, a blockade of the port, and as real an invasion of the country, according to the extent of his force, as if troops had been debarked, and the town besieged on the land side.

Was it possible for the chief magistrate of a nation, who felt for its rights and its honour, to do less than interpose some measure of precaution at least against the repetition of enormities, which had been so long uncontrolled by the government whose officers had committed them, and which had at last taken the exorbitant shape of hostility and of insult, seen in the attack on the frigate *Chesapeake*? Candour will pronounce that less could not be done; and it will as readily admit that the proclamation, comprising that measure, could not have breathed a more temperate spirit, nor spoken in a more becoming tone. How far it has received from those, whose intrusions it prohibited, the respect due to the national authority, or been made the occasion of new indignities, needs no explanation.

The President, having interposed this precautionary interdiction, lost no time in instructing the minister plenipotentiary of the United States to represent to the British government the signal aggression which had been committed on their sovereignty and their flag, and to require the satisfaction due for it; indulging the expectation, that his Britannick majesty would at once perceive it to be the

truest magnanimity, as well as the strictest justice, to offer that prompt and full expiation of an acknowledged wrong, which would re-establish and improve, both in fact and in feeling, the state of things which it had violated.

This expectation was considered as not only honourable to the sentiments of his majesty, but was supported by known examples, in which, being the complaining party, he had required and obtained, as a preliminary to any counter complaints whatever, a precise replacement of things, in every practicable circumstance, in their pre-existing situation.

Thus, in the year 1764, Bermudians and other British subjects, who had, according to annual custom, taken possession of Turk's island for the season of making salt, having been forcibly removed with their vessels and effects by a French detachment from the island of St. Domingo, to which Turk's island was alleged to be an appurtenance, the British ambassador at Paris, in pursuance of instructions from his government, demanded, as a satisfaction for the violence committed, that the proceedings should be disavowed, the intention of acquiring Turk's island disclaimed, orders given for the immediate abandonment of it on the part of the French, every thing restored to the condition in which it was at the time of the aggression, and reparation made of the damages which any British subjects should be found to have sustained, according to an estimation to be settled between the governours of St. Domingo and Jamaica. A compliance with the whole of this demand was the result.

Again :—In the year 1789, certain English merchants having opened a trade at Nootka sound, on the north west coast of America, and attempted a settlement at that place, the Spaniards, who had long claimed that part of the world as their exclusive property, despatched a frigate from Mexico, which captured the two English vessels engaged in the trade, and broke up the settlement on the coast. The Spanish government was the first to complain, in this case, of the intrusions committed by the British merchants. The British government, however, demanded that the vessels taken by the Spanish frigate should be restored, and adequate satisfaction granted, *previous to any other discussion.*

This demand prevailed ; the Spanish government agreeing to make full restoration of the captured vessels, and to indemnify the parties interested in them for the losses sustained. They restored also the buildings and tracts of land, of which the British subjects had been dispossessed. The British, however, soon gave a proof of the little value they set on the possession by a voluntary dereliction, under which it has since remained.

The case which will be noted last, though of a date prior to the case of Nootka sound, is that of Falkland's islands. These islands lie about 100 leagues eastward of the straits of Magellan. The title to them had been a subject of controversy among several of the maritime nations of Europe. From the position of the islands, and other circumstances, the pretension of Spain bore an advantageous comparison with those of her competitors. In the year 1770, the British took possession of Port Egmont, in one of the islands ; the Spaniards being at the time in possession of another part, and protesting against a settlement by the British. The protest being without effect, ships and troops were sent from Buenos Ayres by the governour of that place, which forcibly dispossessed and drove off the British settlers.

The British government looking entirely to the dispossession by force, demanded, as a specifick condition of preserving harmony between the two courts, not only the disavowal of the Spanish proceedings, but that the affairs of that settlement should be immediately restored to the precise state, in which they were previous to the act of dispossession. The Spanish government made some difficulties ; requiring particularly a disavowal, on the part of Great Britain, of the conduct of her officer at Falkland's islands, which, it was alleged, gave occasion to the steps taken by the Spanish governour ; and proposing an adjustment by mutual stipulations in the ordinary form.

The reply was, that the moderation of his Britannick majesty having limited his demand to the smallest reparation he could accept for the injury done, nothing was left for discussion but the mode of carrying the disavowal and restitution into execution ; *reparation losing its value, if it be conditional*, and to be obtained by any stipulation whatever from the party injured.



The Spanish government yielded. The violent proceedings of its officers were disavowed. The fort, the port, and every thing else were agreed to be immediately restored to the precise situation which had been disturbed ; and duplicates of orders, issued for the purpose to the Spanish officers, were delivered into the hands of one of the British principal secretaries of state. Here again it is to be remarked, that satisfaction having been made for the forcible dispossession, the islands lost their importance in the eyes of the British government, were in a short time finally evacuated, and Port Egmont remains with every other part of them in the hands of Spain.

Could stronger pledges have been given than are here found, that an honourable and instant reparation would be made in a case, differing no otherwise from those recited, than as it furnished to the same monarch of a great nation an opportunity to prove, that, adhering always to the same immutable principle, he was as ready to do right to others, as to require it for himself.

Returning to the instructions given to the minister plenipotentiary of the United States at London, I am to observe, that the President thought it just and expedient to insert, as a necessary ingredient in the adjustment of the outrage committed on the American frigate, a security against the future practice of British naval commanders in impressing from merchant vessels of the United States on the high seas such of their crews as they might undertake to denominate British subjects.

To this association of the two subjects the President was determined, 1st, by his regarding both as resting on kindred principles, the immunity of private ships, with the known exceptions made by the law of nations, being as well established as that of publick ships ; and there being no pretext for including in these exceptions the impressment (if it could be freed from its enormous and notorious abuses) of the subjects of a belligerent, by the officers of that belligerent. The rights of a belligerent, against the ships of a neutral nation, accrue merely from the relation of the neutral to the other belligerent, as in conveying to him contraband of war, or in supplying a blockaded port.

The claim of a belligerent, to search for and seize, on board neutral vessels, on the high seas, persons under his



allegiance, does not therefore rest on any belligerent right under the law of nations, but on a prerogative derived from municipal law; and involves the extravagant supposition, that one nation has a right to execute, at all times and in all cases, its municipal laws and regulations, on board the ships of another nation, not being within its territorial limits.

The President was led to the same determination, 2dly, by his desire of converting a particular incident into an occasion for removing another and more extensive source of danger to the harmony of the two countries: And 3dly, by his persuasion, that the liberality of the propositions, authorized with this view, would not fail to induce the ready concurrence of his Britannick majesty; and that the more extensive source of irritation and perplexity being removed, a satisfactory adjustment of the particular incident would be the less difficult. The President still thinks that such would have been the tendency of the mode for which he had provided; and he cannot therefore but regret, that the door was shut against the experiment by the peremptory refusal of Mr. Canning to admit it into discussion, even in the most informal manner, as was suggested by Mr. Monroe.

The President felt the greater regret, as the step he had taken towards a more enlarged and lasting accommodation became thus a bar to the adjustment of the particular and recent aggression, which had been committed against the United States. He found, however, an alleviation in the signified purpose of his Britannick majesty, to charge with this adjustment a special mission to the United States, which, restricted as it was, seemed to indicate a disposition from which a liberal and conciliatory arrangement of one great object at least might be confidently expected.

In this confidence, your arrival was awaited with every friendly solicitude; and our first interview having opened the way by an acquiescence in the separation of the two cases, insisted on by his Britannick majesty, notwithstanding the strong ground on which they had been united by the President, it was not to be doubted that a tender of the satisfaction claimed by the United States, for a distinguished and an acknowledged insult by one of his officers, would immediately follow.

It was not, therefore, without a very painful surprise, that the error of this expectation was discovered. Instead of the satisfaction due from the original aggression, it was announced that the first step towards the adjustment must proceed from the party injured; and your letter now before me formally repeats, that, as long as the proclamation of the President, which issued on the 2d July, 1807, shall be in force, it will be an insuperable obstacle to a negotiation even on the subject of the aggression which preceded it; in other words, that the proclamation must be put out of force, before an adjustment of the aggression can be taken into discussion.

In explaining the grounds of this extraordinary demand, it is alleged to be supported by the consideration that the proceeding and pretension of the offending officer has been disavowed: that general assurances are given of a disposition and intention in his Britannick majesty to make satisfaction; that a special minister was despatched with promptitude for the purpose of carrying into effect this disposition: and that you have a personal conviction that the particular terms, which you are not at liberty previously to disclose, will be deemed by the United States satisfactory.

With respect to the disavowal, it would be unjust not to regard it as a proof of candour and amity towards the United States, and as some presage of the voluntary reparation which it implied to be due. But the disavowal can be the less confounded with the reparation itself; since it was sufficiently required by the respect which Great Britain owed to her own honour; it being impossible that an enlightened government, had hostility been meditated, would have commenced it in such a manner, and in the midst of existing professions of peace and friendship. She owed it also to consistency with a disavowal on a former occasion, in which the pretension had been enforced by a British squadron against the sloop of war *Baltimore*, belonging to the United States; and finally to the interest which Great Britain has, more than any other nation, in disclaiming a principle which would expose her superior number of ships of war, to so many indignities from inferior navies.

As little can the general assurances, that reparation would be made, claim a return which could properly follow

the actual reparation only. They cannot amount to more than a disposition, or at most a promise, to do what the aggressor may deem a fulfilment of his obligation. They do not prove even a disposition to do what may be satisfactory to the injured party, who cannot have less than an equal right to decide on the sufficiency of the redress.

In despatching a special minister for the purpose of adjusting the difference, the United States ought cheerfully to acknowledge all the proof it affords on the part of his Britannick majesty of his pacifick views towards them, and of his respect for their friendship. But whilst they could not, under any circumstances, allow to the measure more than a certain participation in an honourable reparation, it is to be recollected that the avowed and primary object of the mission was, to substitute for the more extended adjustment proposed by the United States, at London, a separation of the subjects, as preferred by his Britannick majesty; and you well know, sir, how fully this object was accomplished.

With respect to the personal conviction which you have expressed, that the terms which you decline to disclose would be satisfactory to the United States, it is incumbent on me to observe, that, with the highest respect for your judgment, and the most perfect confidence in your sincerity, an inseparable objection manifestly lies to the acceptance of a personal and unexplained opinion, in place of a disclosure which would enable this government to exercise its own judgment in a case affecting so essentially its honour and its rights. Such a course of proceeding would be without example; and there can be no hazard in saying, that one will never be afforded by a government which respects itself as much as yours justly does; and therefore can never be reasonably expected from one which respects itself as much as this has a right to do.

I forbear, sir, to enlarge on the intrinsic incongruity of the expedient proposed. But I must be allowed to remark, as an additional admonition of the singular and mortifying perplexity in which a compliance might involve the President, that there are in the letter of Mr. Canning, communicating to Mr. Monroe the special mission to the United States, pregnant indications that other questions and conditions may have been contemplated, which would be

found utterly irreconcilable with the sentiments of this nation.

If neither any nor all of these considerations can sustain the preliminary demand made in your communication, it remains to be seen whether such a demand rests with greater advantage on the more precise ground on which you finally seem to place it.

The proclamation is considered as a hostile measure, and a discontinuance of it, as due to the discontinuance of the aggression which led to it.

It has been sufficiently shown that the proclamation, as appears on the face of it, was produced by a train of occurrences terminating in the attack on the American frigate, and not by this last alone. To a demand, therefore, that the proclamation be revoked, it would be perfectly fair to oppose a demand, that redress be first given for the numerous irregularities which preceded the aggression on the American frigate, as well as for this particular aggression, and that effectual control be interposed against repetitions of them. And as no such redress has been given for the past, notwithstanding the lapse of time which has taken place, nor any such security for the future, notwithstanding the undiminished reasonableness of it, it follows, that a continuance of the proclamation would be consistent with an entire discontinuance of one only of the occurrences from which it proceeded.

But it is not necessary to avail the argument of this view of the case, although of itself entirely conclusive. Had the proclamation been founded on the single aggression committed on the Chesapeake, and were it admitted, that the discontinuance of that aggression merely gave a claim to the discontinuance of the proclamation, the claim would be defeated by the incontestable fact, that that aggression has not been discontinued. It has never ceased to exist; and is in existence at this moment. Need I remind you, sir, that the seizure and asportation of the seamen belonging to the crew of the Chesapeake entered into the very essence of that aggression, that, with an exception of the victim to a trial, forbidden by the most solemn considerations, and greatly aggravating the guilt of its author, the seamen in question are still retained, and consequently that the aggression, in no other respect, is by that act alone continued and in force?

If the views which have been taken of the subject have the justness which they claim, they will have shown that on no ground whatever can an annulment of the proclamation of July 2d be reasonably required, as a preliminary to the negotiation with which you are charged. On the contrary, it clearly results, from a recurrence to the causes and object of the proclamation, that, as was at first intimated, the strongest sanctions of Great Britain herself would support the demand, that, previous to a discussion of the proclamation, due satisfaction should be made to the United States; that this satisfaction ought to extend to all the wrongs which preceded and produced that act; and that, even limiting the merits of the question to the single relation of the proclamation to the wrong committed in the attack on the American frigate, and deciding the question on the principle that a discontinuance of the latter required of right a discontinuance of the former, nothing appears that does not leave such a preliminary destitute of every foundation which could be assumed for it.

With a right to draw this conclusion, the President might have instructed me to close this communication with the reply stated in the beginning of it; and perhaps in taking this course, he would only have consulted a sensibility, to which most governments would, in such a case, have yielded. But adhering to the moderation by which he has been invariably guided, and anxious to rescue the two nations from the circumstances, under which an abortive issue to your mission necessarily places them, he has authorized me, in the event of your disclosing the terms of reparation which you believe will be satisfactory, and on its appearing that they are so, to consider this evidence of the justice of his Britannick majesty as a pledge for an effectual interposition with respect to all the abuses, against a recurrence of which the proclamation was meant to provide, and to proceed to concert with you a revocation of that act, bearing the same date with the act of reparation to which the United States are entitled.

I am not unaware, sir, that, according to the view which you appear to have taken of your instructions, such a course of proceeding has not been contemplated by them. It is possible, nevertheless, that a re-examination, in a spirit, in which I am well persuaded it will be made, may discover them to be not inflexible to a proposition, in so



high a degree liberal and conciliatory. In every event, the President will have manifested his willingness to meet your government on a ground of accommodation, which spares to its feelings, however misapplied he may deem them, every concession, not essentially due to those which must be equally respected, and consequently will have demonstrated that the very ineligible posture given to so important a subject in the relations of the two countries, by the unsuccessful termination of your mission, can be referred to no other source than the rigorous restrictions under which it was to be executed.

I make no apology, sir, for the long interval between the date of your letter and that under which I write. It is rendered unnecessary by your knowledge of the circumstances to which the delay is to be ascribed.

With high consideration and respect, I have the honour to be, &c.

JAMES MADISON.

George H. Rose, Esq.

His Britannick Majesty's Minister, &c. &c. &c.

*Washington, March 17, 1808.*

SIR,—Being deeply impressed with the sense of his majesty's anxiety, that full effect should be given to those views of justice and moderation, by which his conduct has been regulated through the whole of the unfortunate transaction whence the present differences have arisen, and of the disappointment with which he would learn the frustration of his just and equitable purposes, I have felt it incumbent upon me, on the receipt of the letter which you did me the honour to address to me on the 5th instant, to apply anew to this matter the most ample and serious consideration. It is with the most painful sensations of regret, that I find myself, on the result of it, under the necessity of declining to enter into the terms of negotiation, which, by direction of the President of the United States, you therein offer. I do not feel myself competent, in the present instance, to depart from those instructions, which I stated in my letter of the 26th of January last, and which preclude me from acceding to the condition thus proposed. I should add, that I am absolutely prohibited from entering upon matters unconnected with the specifick object



I am authorized to discuss, much less can I thus give any pledge concerning them. The condition suggested, moreover, leads to the direct inference, that the proclamation of the President of the United States of the 2d of July, 1807, is maintained either as an equivalent for reparation for the time being, or as a compulsion to make it.

It is with the more profound regret that I feel myself under the necessity of declaring, that I am unable to act upon the terms thus proposed, as it becomes my duty to inform you, in conformity to my instructions, that on the rejection of the demand stated in my former letter, on the part of his majesty, my mission is terminated. And as his majesty's government, in providing me with those instructions, did not conceive that, after the declaration of his sentiments respecting the affair of the Chesapeake was made known to this government, the state of any transactions pending or unterminated between the two nations could justify the perseverance in the enforcement of the President's proclamation, I can exercise no discretion on this point.

As on a former occasion I detailed, though minutely, the motives for that demand on the part of his majesty, which I with so much concern learn to be deemed inadmissible by the government of the United States, I should here abstain from an exposition of them, which visibly can have no further effect upon the negotiation, if I did not deem it essential that they should not be left under any misapprehension, which I might be able to remove. I shall therefore take a short review of the transaction, which has given rise to these discussions, in order the more correctly to determine the soundness of the principles upon which that demand is made.

Certain deserters from his majesty's navy, many of them his natural born subjects, having entered into the service of the United States, were repeatedly and fruitlessly demanded, by the British officers, of the recruiting officers of the United States, but were retained in their new service. As it was a matter of notoriety that several of these deserters were on board the frigate of the United States, the Chesapeake, they were demanded of that frigate, on the high seas, by his majesty's ship Leopard, and all knowledge of their presence on board being denied, she was attacked, and four of them, one avowedly a native Eng-

lishman, were taken out of her. Without being deterred by the consideration of how far circumstances hostile in their nature had provoked, though they undoubtedly by no means justified, this act of the British officer, his majesty's government directed, that a positive disavowal of the right of search asserted in this case, and of the act of the British officer, as being unauthorized, and a promise of reparation, should be conveyed to the American minister in London, before he had made any representation by order of the United States.

This disavowal, made on the 2d of August last, was transmitted by him to his government before the 6th of that month. But before Mr. Monroe had received his orders to demand reparation, his majesty learnt, with what surprise it is needless to dwell upon, that the President of the United States had interdicted by proclamation, bearing date the 2d of July, 1807, the entry of all their ports to the whole of his navy. This surprise was certainly increased, when in the letter delivered by that minister to require redress for the wrong, although it went into details unconnected with it, not only no concern was expressed on the part of the United States, at having felt themselves compelled to enact measures of so much injury and indignity towards a friendly power, but no mention was made of the causes of such measures being resorted to, or even of the fact of their having been adopted. In addition to the embarrassment arising from these circumstances, and the insufficiency of the explanations subsequently given to Mr. Canning, the introduction of a subject foreign to that of the complaint became the main impediment to the success of the discussion which took place in London. When I had the honour to open the negotiation with you, sir, as I had learnt that the President's proclamation was still in force, it became my duty, conformably to my instructions, to require its recall, as a preliminary to further discussion; had it not been in force, I was not ordered to have taken it into consideration in the adjustment of reparation; and it was considered as hardly possible, that it should not have been recalled immediately upon the knowledge of his majesty's disavowal of the attack upon the *Chesapeake*, as an unauthorized act.—But his majesty could not suffer the negotiation to be carried on, on his behalf, under an interdict, which, even if justifiable in the

first moment of irritation, cannot be continued after the declaration of his majesty's sentiments upon the transaction, except in a spirit of hostility.

It might have been fairly contended, that, in the first instance, the exercise of such an act of power, before reparation was refused or unduly protracted, was incompatible with the purposes and essence of pacifick negotiation, and with a demand of redress through that channel; but such have been his majesty's conciliatory views, that this argument has not been insisted on, although it might now be the more forcibly urged, as it appears that the government of the United States was from the first sensible, that, even had hostility been meditated by the British government, it would not have commenced it in such a manner. But the exception taken, is to the enforcement continued up to the present time of measures highly unfriendly in their tendency, persisted in, not only after the disavowal in question, the promise of the proffer of suitable reparation, and the renewed assurances of his majesty's amicable dispositions, but after security has been given in a publick instrument bearing date the 16th of October, 1807. that the claim to the seizure of deserters from the national ships of other powers cannot again be brought forward by his majesty's naval officers. It is unnecessary to dwell upon the injury and indignity to which his majesty's service is exposed, both as touching the freedom and security of correspondence of his agents and accredited ministers in the United States, or as resulting from a measure, which, in time of war, excludes the whole of his navy from all their ports, which ports are completely open to the fleets of his enemies. It will be sufficient to observe, that, even where exemptions from it are granted, they are made subject to such conditions, that of the three last British ships of war, which have entered these ports upon publick business, two of them, his majesty's ship *Statira* having on board a minister sent out for the adjustment of the present differences, and a schooner bearing despatches, in consequence of their inability to procure pilots, were obliged to enter their waters without such assistance, and were exposed to considerable danger. Great Britain, by the forms established, could repair the wrongs committed, even to the satisfaction of the United States, no otherwise than by the channel of negotiation, yet she avowed distinctly, that a

wrong was committed, and that she was ready to make reparation for it ; it cannot therefore be contended, that the unavoidable delay of actual reparation subjected her to the imputation of persisting in an aggression, which was disclaimed from the first ; if this is true, however much she will regret any impediment in the adjustment of a difference, in which the feelings of this nation are so materially interested, can she, consistently with a due care of her own honour and interests, allow it to be concluded on her part under an adherence to a conduct, which has a decided character of enmity in the proceedings held towards her by the other party.

I know not in what view the perseverance in the President's proclamation, up to this moment, can be considered, but in that of a measure of retaliation ; or of self-assumed reparation ; or a measure intended to compel reparation ; unless it be that which, if I rightly understand, you define it to be, a measure of precaution.

If, when a wrong is committed, retaliation is instantly resorted to by the injured party, the door to pacifick adjustment is closed, and the means of conciliation are precluded. The right to demand reparation is incompatible with the assumption of it. When parties are in a state of mutual hostility, they are so far on a footing, and as such they may treat : but a party disclaiming every unfriendly intention, and giving unequivocal proofs of an amicable disposition, cannot be expected to treat with another, whose conduct towards it has the direct effects of actual hostility. If then the enforcement of the President's proclamation, up to the present moment, is a measure of self-assumed reparation, it is directly repugnant to the spirit and fact of amicable negotiation ; if it is a measure to compel reparation, it is equally so ; and by the perseverance in it Great Britain is dispensed with the duty of proffering redress. But if it is a measure of precaution, in order to secure reparation, or in order to compel it, it falls under the objections I have just stated. If it is a precaution adopted as a guard against acts of violence apprehended on the part of his majesty's naval officers, it surely cannot be considered as being as effectual a security as that arising from the renewed assurances of his majesty's friendly disposition, which imply a due observance of the rights of nations, with which Great Britain is in amity, by all persons

holding authority under his majesty's government, from the disavowal of the pretension of the search of national ships, and from the further assurance of that disavowal, given in his majesty's proclamation of the 16th of October last : neither under these concurrent circumstances can the plea of necessity be maintained ; and if such a proceeding has not the plea of necessity, it assumes the character of aggression. If these concurrent securities against such an apprehension have any value, the necessity no longer exists ; if they are of no value, negotiation cannot be attempted, as the basis upon which it rests, the mutual confidence of the two parties, would be wholly wanting.

From the moment, after the unfortunate affair of the Chesapeake, that his majesty's naval commanders in these waters had ascertained that they were safe from the effervescence of that popular fury, under which the most glaring outrages were committed, and by which they were very naturally led to the supposition that they were objects of particular hostility, and that a state of war against them, requiring precautions on their part, had commenced, no conduct has been imputed to them, which could vindicate the necessity of maintaining in force the President's proclamation. Since that time such of those officers, as have been necessitated by the circumstances of the war to remain in these waters, have held no communication with the shore, except in an instance too trifling to dwell upon, and instantly disavowed by the commanding officer ; and they have acquiesced quietly in various privations, highly prejudicial to the service they were upon, and in consequence of an interdict, which, had they been regardless of their duties towards a state, in amity with their sovereign, and had they not carefully repressed the feelings its tone and language had a direct tendency to provoke in them, would have rather excited, than have averted the evils it was stated to be intended to prevent ; were they regardful of these duties, it was unnecessary. Had they felt themselves obliged completely to evacuate the waters of the United States, especially whilst an enemy's squadron was harboured in them, they could have done it ; but under the admission of hostile compulsion, and under such compulsion, carried into full effect, his majesty could not have dissembled the extent of the injury received.



In the several cases adduced, in which Great Britain required certain preliminaries, previously to entering into negotiation, she regulated her conduct by the same principles to which she now adheres; and refused, whilst no hostility was exhibited on her part, to treat with powers, whose proceedings denoted it towards her; and who maintained their right in what they had assumed.

From the considerations thus offered, I trust that neither the order of reason or that of usage are in contradiction to the demand I have urged, nor am I aware how the order of time opposes the revocation, in the first instance, of that act, which affects injuriously one of the parties, and is still avowed by the other.

The subject is thus presented to you, sir, in the light in which it was natural that it should offer itself to his majesty's government. It certainly conceived the President's proclamation to rest chiefly, and most materially, upon the attack made upon the frigate of the United States, the Chesapeake, by his majesty's ship Leopard, although other topicks were adduced as accessories. In this apprehension, it may be held to have been sufficiently warranted by the precise time, at which, and the circumstances under which, it was issued, and by its whole context; and the more so, as the impulse under which it was drawn up appears to have been so sudden as to have precluded a due examination of all the grounds of allegation contained in it. And here I beg leave to assure you, that, with respect to the spirit and tone of that instrument, it would be highly satisfactory to me, if I could feel myself justified in expressing, on the part of his majesty, any degree of coincidence with the opinions you have announced, or, when thus appealed to, and making every allowance for the irritation of the moment, I could dissemble the extreme surprise experienced by Great Britain, that the government of a friendly nation, even before an amicable demand of reparation was made, and yet meaning to make that demand, should have issued an edict directing measures of injury very disproportionate to what it knew was an unauthorized offence, and both in its terms and its purport so injurious to the government to which that demand was to be addressed, and tending to call forth in both nations the feelings under which a friendly adjustment would be the most difficult. But if, as I learn from



you, sir, the proclamation rests substantially on other causes, it is then peculiarly to be regretted, that, together with the demand for redress made in September last, the government of the United States did not think fit to offer a negotiation, or an explanation of so momentous a measure, or to declare that its recall must be more or less connected with the adjustment of other alleged wrongs. Neither did it think it necessary to return any answer to the remonstrance given in by his majesty's envoy at Washington, on the 13th July, 1807, in which he represented, "that he considered that interdiction to be so unfriendly in its object, and so injurious in its consequences to his majesty's interests, that he could not refrain from expressing the most sincere regret, that it ever should have been issued, and most earnestly deprecating its being enforced."

It could not be supposed that a circumstance of so great weight could be overlooked by his majesty's government, in determining the line of conduct to be held in the negotiation; and as little could it be expected to pass it over, when, on the failure of the discussion with Mr. Monroe, it directed a special mission to be sent to the United States. It had the less reason to imagine that any other grievances could be connected with that, for the adjustment of which I am empowered to negotiate, as Mr. Monroe, in his letter to Mr. Canning of the 29th of July last, had stated with respect to other subjects of remonstrance, that it was improper to mingle them with the present more serious cause of complaint; an opinion to which Mr. Canning declared his perfect assent in his letter to that minister of the 2d of the subsequent month; so that this act was left as single and distinct, to be singly and distinctly considered. His majesty's government, therefore, could not consistently with any view of the subject then before it, or indeed with the just object of my mission, direct or empower me to enter upon matters not connected with that of the Chesapeake; and they could with the less propriety do it, as, in order to render the adjustment of differences of such a nature the more easy and the more conspicuous, the ministers charged especially with such offices have been, with few, if any exceptions, restricted to the precise affair to be negotiated. With respect, therefore, to those other causes of complaint, upon which you inform me that

the President's proclamation rests, I cannot be furnished with documents enabling me either to admit or to controvert those statements of grievance, foreign to the attack upon that ship, contained in your letter, or authorized to discuss the matters themselves. I shall therefore not allow myself to offer such comments as my personal knowledge of some of those transactions suggest to me, although their tendency would materially affect both the marked manner in which those transactions are portrayed, and the disadvantageous light in which his majesty's government is represented to have acted respecting them. I am moreover led to the persuasion, that my government will be the more easily able to rescue itself from inculpation by the inference arising from passages in Mr. Monroe's letters to Mr. Secretary Canning, of the 29th of September last, that the differences unhappily existing between the two nations were in a train of adjustment.

If his majesty has not permitted me to enter into the discussion of the search of neutral merchant ships for British seamen, together with the adjustment of the amount of reparation for the attack upon the Chesapeake, it was no wise with a view of precluding the further agitation of that question at a suitable time ; but it was that the negotiation might be relieved from the embarrassment arising from the connexion of the present matter with the one so foreign to it, and, as it was but too well known, so difficult to be adjusted, of a right distinctly disclaimed with one which Great Britain has at all times asserted, of enforcing her claim to the services of her natural born subjects, when found on board merchant vessels of other nations ; a claim which she founds in that principle of universal law, which gives to the state the right of requiring the aid and assistance of her native citizens. The recurrence, therefore, to that course of negotiation, which had been originally settled between Mr. Secretary Canning and Mr. Monroe, and which had been alone broken in upon by the orders subsequently received by that minister, can only be considered as a resumption of that course of things which Great Britain strenuously contended there was no ground to depart from. I may observe that this purpose might have been effected without the intervention of a special minister.

It will be in your recollection, sir, that, in our first interview, I stated the condition, which makes the subject of the present letter, before I was informed by you, that the President of the United States would consent to the separation of the two subjects.

I had trusted, that the exposition, which I added in my letter of the 26th of January to the verbal explanation I had before offered, of the grounds of his majesty's demand, was both in its purport, and in the terms in which it was couched, such as to prevent a suspicion that they were in their intention derogatory to the honour, or calculated to wound the just sensibility of the nation. I may add, that such a supposition could not be reconciled with the various ostensible and unequivocal demonstrations of his majesty's good faith, and anxiety, that this transaction should be brought to an amicable termination, which were exhibited even prior to any remonstrances on the part, or by order of this government. The other topicks which I felt myself authorized to advance in that letter, in illustration of that amicable disposition on the part of the king, were brought forward from the conviction I entertained that they must be of a nature to be satisfactory to this government, and therefore such as it was particularly my duty to enforce, but not with a view to rest upon them the right to advance the claim which I have stated.

I may here remark, it is obvious, that, far from requiring that the first steps towards an arrangement of reparation should be taken by the United States, Great Britain has already made them openly and distinctly : they are indubitable testimonies to the respect borne and decidedly marked by Great Britain to the ties of amity subsisting between the two nations, and of her cordial desire to maintain them unimpaired ; and as such alone they were urged.

As his majesty would have derived sincere satisfaction from the evidence of corresponding feelings on the part of the United States, so it would be the more painful to me to dwell upon a series of insults and menaces, which, without any provocation of warlike preparation on the part of Great Britain, have been for months accumulated upon her through the United States, and but too frequently from quarters whose authority necessarily and powerfully commanded attention.

I ought perhaps to apologize for adverting to an incidental expression in your letter, if I did not think it right to remove any ambiguity respecting the nature of the claim which Great Britain maintained to her seamen, native citizens of the realm, who have deserted from her service to that of other powers; it is, that on demand they shall be discharged *forthwith*, and consequently they shall instantly be freed from their newly contracted obligations.

Before I close this letter, allow me to state to you, sir, that I have felt it my duty to transmit to his majesty's government the exposition, contained in your letter of the 5th instant, of the various demands on the honour and good faith of Great Britain, on which the complaint is made, that satisfaction has not been afforded to the United States, and on which, conjointly with the affair of the Chesapeake, you inform me that the proclamation of the President of the United States of the 2d July, 1807, is founded. It will be for his majesty's government to determine on the part of Great Britain, whether any, and what obligations remain to be fulfilled by her—whether any denial, or such protraction of redress have occurred on her part as to render necessary or justifiable the perseverance in an edict, which, when not necessary or justifiable, assumes a character of aggression; and whether, on the result of these considerations, the present negotiation can be resumed on the part of his majesty, with a due regard for his own honour, or with a prospect of a more successful termination.

I have the honour to be, with the highest consideration, &c.

G. H. ROSE.

*Mr. Madison to Mr. Monroe. Department of State, Jan. 5, 1804.*

SIR,—The information and observations which you have as yet received from me since your arrival in London, on the impressment of our seamen and other violations of our rights, have been in private letters only. The delay in making these injuries the subject of official communications proceeded, first, from an expectation that the British government would have notified formally to the United States, as a neutral power, the state of war between Great

Britain and France, which would have been an apt occasion for combining with assurances of the fairness, with which our neutral obligations would be fulfilled, our just claims on a correspondent respect for our neutral rights, and particularly of those which had been least respected during the last war; secondly, from the expected arrival of Mr. Merry, which, if he should not be charged with such a notification, might be a favourable opportunity for commencing the explanations and discussions, which must precede a thorough correction of the wrongs which we experience.

Since the arrival of Mr. Merry, accordingly, no time has been lost in calling his attention to the subject; and in preparing both it and him for the negotiation which is now to be committed to you. If appearances are to be trusted, his impressions and representations will be friendly to it. In my conversations with him, which have been free and full, he has expressed the best dispositions, has listened with candour to the appeals made, as well to the considerations of justice, as of the solid interest of his nation; and although he suggests serious difficulties on certain points, he will, I believe, sincerely co-operate in lessening them, and in bringing about an arrangement which will be acceptable to this country. The only topick, on which any thing has passed in writing between the department of state and him, is that of the pretended blockade of St. Domingo. Copies of my letter to him, and of his answer, are herewith enclosed; as also of the letter written to Mr. Thornton, some time before, and referred to in that to Mr. Merry, in relation to a like blockade of Martinique and Guadaloupe.

Although there are many important objects which may be thought to invite conventional regulations between the United States and Great Britain, it is evidently proper to leave, for subsequent consideration, such as are less urgent in their nature, or more difficult in their adjustment; and thereby to render the way plainer and shorter to an agreement with respect to objects which cannot be much longer delayed, without danger to the good understanding between the two nations. With this view, the plan of a convention contemplated by the President is limited to the cases of impressments of our seamen, of blockades, of visiting and searching our vessels, of contraband of war, and of



the trade with hostile colonies, with a few other cases affecting our maritime rights; embracing, however, as inducements to Great Britain to do us justice therein, a provision for the surrender of deserting seamen and soldiers, and for the prevention of contraband supplies to her enemies.

The plan digested for your use is subjoined. The first column contains the articles which are to be proposed in the first instance, and which are considered as within our just expectations; the second modifies the articles into the concessions, which the British government may possibly require, and which it may be expedient for us ultimately to admit.

*A Convention between the United States and Great Britain.*

FIRST PROPOSAL.

SECOND AND ULTIMATUM.

ARTICLE I.

No person whatever shall, upon the high seas and without the jurisdiction of either party, be demanded or taken out of any ship or vessel belonging to citizens or subjects of one of the parties, by the publick or private armed ships belonging to or in the service of the other, unless such person be at the time in the military service of an enemy of such other party.

ARTICLE I.

No seamen, seafaring or other person, shall, upon the high seas and without the jurisdiction of either party, be demanded or taken out of any ship or vessel belonging to the citizens or subjects of one of the parties, by the publick or private armed ships belonging to or in the service of the other party; and strict and effectual orders shall be given for the due observance of this engagement; but it is to be understood that this article shall not exempt any person on board the ships of either of the parties from being taken therefrom by the other party, in cases where they may be liable to be so taken according to the laws of nations, which liability, however, shall not be construed to extend in any case to seamen or seafaring persons, being actually part of the crew of the vessel in which they may be, nor to persons of any



description passing from one port to another port of either of the parties.

## ARTICLE II.

The same.

## ARTICLE II.

No person being a subject or citizen of one of the parties, and resorting to or residing in the dominions of the other, shall in any case be compelled to serve on board any vessel, whether publick or private, belonging to such other party; and all citizens or subjects whatever of the respective parties, at this time compulsively serving on board the vessels of the other, shall be forthwith liberated, and enabled, by an adequate recompense, to return to their own country.

## ARTICLE III.

The same.

## ARTICLE III.

If the ships of either of the parties shall be met with, sailing either along the coasts or on the high seas, by any ship of war or other publick or private armed ships of the other party, such ships of war, or other armed vessels shall, for avoiding all disorder in visiting and examining the same, remain out of cannon shot, unless the state of the sea or the place of meeting render a nearer approach necessary; and shall in no case compel or require such vessel to send her boat, her papers, or any person from on board to the belligerent vessel; but the belligerent vessel may send her own boat to the other, and may enter her to the number of two or three men only, who may, in an orderly manner, make the necessary inquiries concerning the

vessel and her cargo ; and it is agreed that effectual provision shall be made for punishing violations of any part of this article.

## ARTICLE IV.

The same.

## ARTICLE IV.

Contraband of war shall consist of the following articles only : saltpetre, sulphur, cuirasses, pikes, swords, sword belts, knapsacks, saddles and bridles, cannons, mortars, fire arms, pistols, bombs, grenades, bullets, fire locks, flints, matches, and gunpowder, excepting, however, the quantity of the said articles which may be necessary for the defence or use of the ship and those who compose the crew ; and no other articles whatever, not here enumerated, shall be reputed contraband or liable to confiscation, but shall pass freely, without being subjected to the smallest difficulty, unless they be enemy's property ; and it is to be particularly understood, that under the denomination of enemy's property is not to be comprised the merchandise of the growth, produce, or manufactures of the countries or dominions at war, which shall have been acquired by the citizens or subjects of the neutral power, and shall be transported for their account ; which merchandise cannot, in any case, or on any pretext, be excepted from the freedom of the neutral flag.

## ARTICLE V.

The same.

## ARTICLE V.

In all cases where the prize courts of either party shall pronounce judgment against any vessel or property claimed by citizens or subjects of the other, the sentence or decree shall mention the reasons or motives on which the same shall have been founded ; and an authenticated copy of the sentence or decree, and of all the proceedings in the case, shall, if demanded, be delivered to the commander or agent of the said vessel, without any delay, he paying the legal fees for the same.

## ARTICLE VI.

The same.

## ARTICLE VI.

In order to determine what characterizes a blockaded port, that denomination is given only to a port where there is, by the disposition of the power which attacks it with ships stationary or sufficiently near, an evident danger in entering.

## ARTICLE VII.

Omit the preamble.

## ARTICLE VII.

[In consideration of the distance of the ports likely to be blockaded by either party from the ports of the other party, and of other circumstances incident to their relative situations] it is agreed, that no vessel sailing from the ports of either shall, although cleared or bound to a blockaded port, be considered as violating in any manner the blockade, unless on her approach towards such port she shall have been previously warned against entering the same.

## ARTICLE VIII.

Omit "captains,  
officers."

## ARTICLE VIII.

It is agreed that no refuge or protection shall be afforded by either party, to the "captains, officers," mariners, sailors, or other persons not found to be its own citizens or subjects, who shall desert from a vessel of the other party, of the crew whereof the deserter made a part; but, on the contrary, all such deserters shall be delivered up, on demand, to the commanders of the vessels from which they shall have deserted, or to the commanding officers of the ships of war of the respective nations, or to such other persons as may be duly authorized to make requisition in that behalf; provided, that proof be made, within two years from the time of desertion, by an exhibition of the ship's papers, or authenticated copies thereof; and by satisfactory evidence of the identity of the person, that the deserters so demanded were actually part of the crew of the vessels in question.

And for the more effectual execution of this article, adequate provision shall be made for causing to be arrested, on the application of the respective consuls or vice consuls to the competent authorities, all deserters as aforesaid, duly proved to be such, in order that they may be sent back to the commanders of the vessels to which they belonged, or removed out of the country, and all due aid and assistance shall be given in searching for, as well as in seizing and arresting the said deserters.

who shall even be detained and kept in the prisons of the country at the request and expense of the said consuls or vice consuls, until they shall have found an opportunity of sending them back or removing them as aforesaid. But if they be not so sent back or removed within three months from the day of their arrest, they shall be set at liberty, and shall not again be arrested for the same cause.

## ARTICLE IX.

Omit "officers or."

## ARTICLE IX.

It is further agreed that no refuge or protection shall be afforded, by either of the parties, to any "officers or" soldiers, not found to be its own citizens or subjects, who shall desert from the military service of the other; but that, on the contrary, effectual measures shall be taken, in like manner and under like regulations and conditions, as with respect to sailors, for apprehending any such deserting soldiers, and delivering them to the commanding officers of the military posts, forts or garrisons from which they shall have deserted, or to the consuls or vice consuls on either side, or to such persons as may be duly authorized to demand their restitution.

## ARTICLE X.

Omitted.

## ARTICLE X.

It is however understood, that no stipulation herein made shall be construed to empower the civil or military officers of either of the parties to enter forcibly into any of the forts,

garrisons, posts or other places, or to use violence of any sort within the jurisdiction of the other party, or be construed, in any manner, to contravene or derogate from the stipulation contained in the first of the above articles against demanding or taking any persons out of vessels on the high seas, and without the jurisdiction of either of the parties.

## ARTICLE XI.

The same.

## ARTICLE XI.

Each party will prohibit its citizens or subjects from clandestinely carrying away, from the territories or dominions of the other, any seamen or soldiers belonging to such other party.

## ARTICLE XII.

The same.

## ARTICLE XII.

Neither party shall permit any of the articles above enumerated, as contraband of war, to be cleared out from its ports to any place within the jurisdiction of an enemy of the other party; and, in order to enforce this regulation, due proof and security shall be given, that all such articles of contraband as may be exported from the ports of either of the parties have been actually destined elsewhere, than within the jurisdiction of an enemy of the other party.

## ARTICLE XIII.

The same.

## ARTICLE XIII.

This convention shall be in force for the term of eight years from the date of the exchange of ratifications. It shall be ratified on both sides



within            months from the day of its signature, or sooner if possible ; and the ratifications exchanged without delay, in the United States, at the city of Washington.

*Observations on the preceding Plan.*

THE first article relates to impressments from American vessels on the high seas. The commanders of British armed vessels have, as is well known, been long in this practice. They have indeed not only continued it, under the sanction of their superiors, on the high seas, but have, with impunity, extended it to our own coasts, to neutral ports, and to neutral territory, and, in some instances, to our own harbours. The article does not comprehend these latter cases ; because it would not be very honourable in Great Britain to stipulate against the practice of such enormities, nor in the United States to recur to stipulations as a security against it ; and because it may be presumed that such particular enormities will not be repeated or unpunished, after a general stop shall have been put to impressments.

The article, in its first form, renounces the claim to take from the vessels of the neutral party, on the high seas, any person whatever, not in the military service of an enemy ; an exception which we admit to come within the law of nations, on the subject of contraband of war.

With this exception, we consider a neutral flag on the high seas as a safe guard to those sailing under it.

[The body of this letter, here omitted, is printed in vol. v. p. 309 to 320 after which follows the residue :]

Considering, nevertheless, the possible adherence of the British government to this last objection, and the extreme importance to our sea-faring citizens and commerce of a stipulation suppressing a practice flagrant in its nature, and still more so in the abuses inseparable from it, you are left at liberty to concur, if necessary, in the modification as it stands in the second column. You will observe that this guards, in all cases, the crews of our vessels from being meddled with : and, in referring for an exception

to the immunity on board our vessels to the law of nations, yields no principle maintained by the United States, inasmuch as the reference will be satisfied by the acknowledged exception of enemies in military service. Should persons therefore, other than such, be taken under pretext of the law of nations, the United States will be free to contest the proceeding, and there is less difficulty in leaving the stipulation on this footing, as the case may never happen, and will be pretty sure to happen but rarely. You will observe also, that, in the passage from one port to another of the respective countries, the vessels of the neutral parties are to protect all persons without exception. Independently of the general principle asserted by the United States, this respect is due to the peculiar character of the coasting trade, and the utter improbability that it will at any time be a vehicle to persons of any obnoxious description.

#### ON ARTICLE II.

The reasonableness of this article is manifest. Citizens or subjects of one country residing in another, though bound by their temporary allegiance to many common duties, can never be rightfully forced into military service, particularly external service, nor be restrained from leaving their residence when they please. The law of nations protects them against both, and the violation of this law by the avowed impressment of American citizens residing in Great Britain may be pressed with the greater force on the British government, as it is in direct inconsistency with her impressment of her own subjects bound by much stronger ties to the United States, as above explained, as well as with the spirit of her commercial laws and policy, by which foreigners are invited to a residence. The liberation of the persons comprehended by this article, therefore, cannot be justly or honourably refused, and the provision for their recompense and their return home is equally due to the service rendered by, and the wrong done to them.

#### ON ARTICLE III.

This regulation is conformable to the law of nations, and to the tenour of all treaties, which define the bellige-

rent claim of visiting and searching neutral vessels. No treaty can be cited, in which the practice of compelling the neutral vessel to send its boat, its officers, its people or its papers, to the belligerent vessel, is authorized. British treaties, as well as those to which she is not a party, in every instance where a regulation of the claim is undertaken, coincide with the article here proposed. The article is in fact almost a transcript of the article of the treaty of 1786 between Great Britain and France.

The regulation is founded in the best reasons. 1st. It is sufficient for the neutral that he acquiesces in the interruption of his voyage, and the trouble of the examination imposed by the belligerent commander. To require a positive and active co-operation on his part in behalf of the latter, is more than can be justified on any principle. 2d. The belligerent party can always send more conveniently to the neutral vessel, than this can send to the belligerent vessel, having neither such fit boats for the purpose, especially in a rough sea, nor being so abundantly manned. 3d. This last consideration is enforced by the numerous and cruel abuses committed in the practice of requiring the neutral vessel to send to the belligerent. As an example, you will find in the documents now transmitted a case where neither the smallness and leakiness of the boat, nor the boisterous state of the weather, nor the pathetick remonstrances of the neutral commander, had any effect on the imperious injunctions of the belligerent, and where the task was performed at the manifest peril of the boat, the papers, and the lives of the people. The limitation of the number to be sent on board the neutral vessel is a reasonable and usual precaution against the danger of insults and pillage.

#### ON ARTICLE IV.

This enumeration of contraband articles is copied from the treaty of 1781 between Great Britain and Russia. It is sufficiently limited, and that treaty is an authority more likely than any other to be respected by the British government. The sequel of the article, which protects the productions of a hostile colony converted into neutral property, is taken from the same model, with the addition

of the terms, "in any case or on any pretext." This addition is meant to embrace more explicitly our right to trade freely with the colonies at war with Great Britain, and between them and all parts of the world, in colonial productions, being at the time not enemy's, but neutral property; a trade equally legitimate in itself with that between neutral countries directly, and in their respective vessels, and such colonies, which her regulations do not contest.

In support of this right, in opposition to the British doctrine, that a trade not allowed by a nation in time of peace cannot be opened to neutrals in time of war, it may be urged, that all nations are in the practice of varying more or less, in time of war, their commercial laws, from the state of these laws in time of peace; a practice agreeable to reason, as well as favourable to neutral nations; that the change may be made in time of war, on considerations not incident to a state of war, but on such as are known to have the same effect in time of peace; that Great Britain herself is in the regular practice of changing her navigation and commercial laws, in times of war, particularly in relation to a neutral intercourse with her colonies; that at this time she admits a trade between neutral countries and the colonies of her enemies, when carried on directly between them, or between the former and herself, interrupting only a direct trade between such colonies and their parent state, and between them and countries in Europe, other than those to which the neutral trade may respectively belong; that as she does not contest the right of neutrals to trade with hostile colonies, within these limitations the trade can be, and actually is carried on indirectly between such colonies and all countries, even those to which the colonies belong: and, consequently, that the effect of her doctrine and her practice is not to deprive her enemy of their colonial trade, but merely to lessen the value of it in proportion to the charges incident to the circuitous course into which it is forced, an advantage to her, which, if just in itself, would not be sufficient to balance the impolitick vexations accruing to neutral and friendly nations.

These views of the subject have entered into my conversations with Mr. Merry. He expresses, notwithstanding, a belief that Great Britain will turn an unfavourable

ear to any proposition calculated to give her enemies the resources of their colonial trade, beyond the degree in which her present regulations permit. This is doubtless to be apprehended, but considering the proposition as an article which may find a balance in the general bargain, it may not be inadmissible; or if inadmissible in the extent proposed, a middle ground may perhaps be accepted. The colonial trade in question consists of four branches; first, between the colonies and Great Britain herself; secondly, between the colonies and the neutral countries carrying on the trade; thirdly, between the colonies and neutral countries not themselves carrying on the trade; fourthly, between the colonies and the countries to which they belong, or which are parties to the war with Great Britain.

The first and second branches are those with which her own regulation accords. The last is that to which her aversion will of course be the strongest. Should this aversion be unconquerable, let it be tried then, and then only, whether, on our yielding, or rather omitting that point, she will not yield to us, in return, the direct trade between hostile colonies and neutral countries generally. You will be careful, however, so to modify the compromise as will mark as little as may be a positive relinquishment of the direct trade between the belligerent nations and their colonies.

Should such a compromise be altogether rejected, you will limit the article to the simple enumeration of contraband, it being desirable that, without a very valuable consideration, no precedent should be given by the United States of a stipulated acknowledgment that free ships do not make free goods. And you will omit the article altogether, if a proper list of contraband cannot be agreed on, particularly one that excludes money, provisions, and naval stores.

#### ON ARTICLE V.

This article, taken from the convention of 1800 between the United States and France, is conformable to the general practice of the prize courts in the latter, and is the more worthy of adoption every where, as it would contribute so much to the consistency and stability of the

rules of admiralty proceedings. Without a single objection justly lying against it, it will have the important advantages of being a check on the inferior tribunals, of enabling the superior tribunal, where a faulty reason appears on the face of the sentence, to correct the wrong without delay or expense, and of being a check moreover on the decision of the superior tribunal itself. As prize causes also are tried by courts not of a third party, but of one of the parties interested, it is but reasonable that the ground should be known to the other, on which judgment has passed against its citizens or subjects, in order, if deemed proper, that negotiation may be employed for redressing past, or guarding against future injustice.

#### ON ARTICLE VI.

The fictitious blockades proclaimed by Great Britain, and made the pretext for violating the commerce of neutral nations, has been one of the greatest abuses ever committed on the high seas. During the late war they were carried to an extravagance, which would have been ridiculous, if in their effects they had not inflicted such serious and extensive injuries on neutral nations. Ports were proclaimed in a state of blockade, previous to the arrival of any force at them, were considered in that state without regard to intermissions in the presence of the blockading force, and the proclamations left in operation after its final departure, the British cruisers during the whole time seizing every vessel bound to such ports, at whatever distance from them, and the British prize courts pronouncing condemnations whenever a knowledge of the proclamation at the time of sailing could be presumed, although it might afterwards be known that no real blockade existed. The whole scene was a perfect mockery, in which fact was sacrificed to form, and right to power and plunder. The United States were among the greatest sufferers; and would have been still more so, if redress for some of the spoliations proceeding from this source had not fallen within the provisions of an article in the treaty of 1794.

From the effect of this and other arbitrary practices of Great Britain on the temper and policy of neutral nations towards her, from the spirit of her treaty made near the



close of the late war with Russia, from the general disposition manifested at the beginning of the present towards the United States, and the comparative moderation observed in Europe with respect to blockades, (if indeed the two cases of the Weser and Elbe are not to be excepted) it was hoped that the mockeries and mischiefs practised under the name of blockades would no where be repeated. It is found, however, that the West Indies are again the theatre of them. The three entire and extensive islands of Martinique, Guadaloupe and St. Domingo have been published as in a state of blockade, although the whole naval force applied to the purpose is inconsiderable, although it appears that a part of this inconsiderable force is occasionally seen at the distance of many leagues at sea, although it does not appear that more than one or two ports at most have at any time been actually blockaded, and although complaints are heard, that the British ships of war do not protect their own trade against the numerous cruisers from the islands under this pretended blockade.

Enclosed herewith are three letters on this subject; two from me, the first to Mr. Thornton, the second to Mr. Merry, and the third from Mr. Merry to me. You will observe that he does not pretend to justify the measures pursued in the West Indies; but on the contrary wishes them to be regarded as proceeding from an officer who does not pursue the intentions of his government. Still such measures prove that no general regulations or orders have been yet issued by that government against the evil, as might reasonably have been expected, and that a stipulated security against it is an object as important as it is just.

In the two letters to Mr. Thornton and Mr. Merry the ground is marked out, on which you will be able to combat the false blockades, and to maintain the definition of a real one, contained in the proposed article which is a literal copy from the fourth article of the Russian treaty above cited. In addition to these letters, you will find enclosed a letter of the                      of                      to Mr. Pinkney, in which some views are taken of the subject, which may also be of use in your discussions with the British government.

## ON ARTICLE VII.

This article is due, if not to all neutrals, at least to the United States, who are distinguished by the distance of their situation. Decisions of the British court of admiralty have so far respected this peculiarity as to admit a want of information as a plea for going to a blockaded port, where such a plea would be refused to less remote countries. But more than this may fairly be claimed. A vessel, knowing that a particular blockade existed two months before, may well conjecture that before her arrival at the port, which will require two months more, the blockade will have ceased; and may accordingly clear and steer for such a port with an honest intention, in case of finding on her approach the fact otherwise, not to attempt an unlawful entrance. To condemn vessels under such circumstances, would be manifestly unjust; and to restrain them from a distant voyage to a port once in a state of blockade, until information of a change shall have travelled a like distance, must produce a delay and uncertainty little short of an absolute prohibition of the commerce. To require them even to go out of their course, to seek at other ports information on the subject, would be an unreasonable imposition. The British government can have little objection to this article, after defining blockades as is agreed with Russia, and as is here proposed; since our distance is of itself a security against any concert with the blockaded for surreptitious entries, which might be attempted by nearer adventurers; and since, in the case of blockades by a force actually present, a preliminary notice may be required without impairing their efficacy, as might be the case with blockades, such as the preceding article guards against.

The only difference between the articles, as standing in the different columns, consists in the preamble to that which is to be admitted, if the proposition of the other should not succeed. The article is preferable without the recital of any reason particular to the United States, because, as a naked stipulation, it strengthens instead of weakening a general principle friendly to neutral and pacifick nations.

## ON ARTICLES VIII, IX AND X.

These are articles which are known to have been long wished and contemplated on the part of Great Britain, and together with the justice, and in many views the expediency to Great Britain herself of the articles desired on our part, may induce her to accede to the whole. The articles are in substance the same with a project offered to the American administration in the year 1800 by Mr. Liston, who appears to have borrowed it from corresponding stipulations in the convention between the United States and France in the year

The project was at that time dropped, owing perhaps, in part, to the change in the head of the department of state, between whom and Mr. Liston it had been discussed, and, principally, to the difficulty of combining with it proper stipulations against British impressments on the high seas. Without such an equivalent, the project had little to recommend it to the United States. Considered by itself, it was too the less admissible, as one of its articles, under some obscurity of expression, was thought to favour the British pretension to impress British seamen from American vessels on the high seas.

A copy of this document is enclosed, as it may be not without use in showing the ideas of the British government at that time, so far at least as its minister here was an organ of them.

The terms, in which these articles are to be proposed, differ but slightly from those in which they may be admitted. In the former, the delivery of deserters is confined to soldiers and seamen, without requiring a delivery of officers, whose desertion will not be from the service of their country, but on account of offences for which it might sometimes be more agreeable to the United States to be unbound to give them up for trial and punishment. At the same time this consideration ought not to be a bar to an arrangement, which, in its general character, will be so important to the interests of the United States.

## ON ARTICLE XI.

This is a stipulation which is not to be yielded but in the event of its being made an indispensable condition. It cannot be essential for the object of it, whilst the British government is left free to take the precautions allowable within its own jurisdiction for preventing the clandestine departure of its seamen or its soldiers in neutral vessels. And it is very ineligible to the United States, inasmuch as it will be difficult to enforce the prohibition, whether we regard the embarkation of such persons in British ports, or their landing on the American shores; and inasmuch as the inefficacy of regulations for such purposes, though made with due sincerity and care, may become a source of secret jealousy and dissatisfaction, if not of controversy and reproach.

The article is copied from that in the arrangement (of which you have a copy) discussed and brought near to a conclusion between Mr. King and the British ministry, and you are authorized to accede to it, on the supposition that it may again be insisted on. It is to be recollected, however, that the article was then understood to be the only price given for relinquishing the impressment of American seamen. The other offers now substituted will justify you in pressing the omission of the original one.

## ON ARTICLE XII.

The law of nations does not exact of neutral powers the prohibition specified in this article. On the other hand, it does not restrain them from prohibiting a trade which appears on the face of the official papers proceeding from the custom-house to be intended to violate the law of nations, and from which legitimate considerations of prudence may also dissuade a government. All that can be reasonably expected by belligerent from neutral powers, is that their regulations on this subject be impartial, and that their stipulations relative to it, when made in time of war at least, should not preclude an impartiality.

It is not certain what degree of value Great Britain may put on this article, connected, as it essentially is, with the

article which limits the list of contraband. It will at least mitigate her objection to such a limitation. With the range given to contraband by her construction of the law of nations, even as acquiesced in by the United States, a stipulation of this sort would be utterly inadmissible.

The last article, in making this city the place for exchanging the ratifications, consults expedition in putting the treaty into operation, since the British ratification can be forwarded at the same time with the instrument itself. And it is otherwise reasonable, that, as the negotiation and formation of the treaty will have taken place at the seat of the British government, the concluding formality should be at that of the government of the United States.

In addition to these articles, which, with the observations thereon, I am charged by the President to communicate to you as his instructions, he leaves you at liberty to insert any others which may do no more than place British armed vessels, with their prizes, on an equality within our ports and jurisdiction with those of France. This would only stipulate what would probably be done by gratuitous regulations here, and as it would no doubt be acceptable to Great Britain, it may not only aid in reconciling her to the principal objects desired by the United States, but may induce her to concur in the further insertion of articles, corresponding with those in the convention of 1800 with France, which regulate more precisely and more effectually the treatment of vessels of the neutral party on the high seas.

The occasion will be proper also for calling the attention of the British government to the reasonableness of permitting American consuls to reside in every part of her dominions, where and so long as she permits our citizens to trade. It is not denied that she has a natural right to refuse such a residence, and that she is free by her treaty with us to refuse it in other than her European dominions. But the exception authorized with respect to the residence of consuls elsewhere, having reference to the refusal of our trade elsewhere, the refusal of the one ought manifestly to cease with the refusal of the other. When our vessels and citizens are allowed to trade to ports in the West Indies, there is the same reason for a temporary admission of consuls to take care of it, as there is for their admission

in ports where the trade is permanently allowed. There is the juster expectation of your success on this point, as some official patronage is due to the rights of our citizens in the prize courts established in the West India islands. Should the British government be unwilling to enter into a stipulated provision, you may, perhaps, obtain an order to the governours for the purpose. Or if consuls be objected to altogether, it is desirable that agents may be admitted, if no where else, at least in the islands where the vice admiralty courts are established.

It has been intimated that the articles, as standing in the different columns, are to be considered, the one as the offer to be made, the other as the ultimatum to be required. This is, however, not to be taken too strictly; it being impossible to foresee the turns and the combinations which may present themselves in the course of the negotiation. The essential objects for the United States are the suppression of impressments, and the definition of blockades. Next to these in importance are the reduction of the list of contraband, and the enlargement of our neutral trade with hostile colonies. Whilst you keep in view, therefore, those objects, the two last as highly important, and the two first as absolutely indispensable, your discretion, in which the President places great confidence, must guide you in all that relates to the inferior ones.

With sentiments of great respect and esteem, I remain,  
sir, your most obedient servant,

JAMES MADISON.

*Mr. Madison to Mr. Monroe. Department of State, Feb.  
14, 1804.*

SIR,—You will herewith receive the ratification, by the President and Senate, of the convention with the British government signed on the 12th of May, 1803, with an exception of the 5th article. Should the British government accede to this change in the instrument, you will proceed to an exchange of ratifications, and transmit the one received without delay, in order that the proper steps may be taken for carrying the convention into effect. As the



same considerations, which led to the arrangements settled by it, urge a prompt execution of them, it may be expected that the steps depending on that government will be hastened. As far as your exhortations may be requisite, you will of course apply them.

The objection to the fifth article appears to have arisen from the posteriority of the signature and ratification of this convention to those of the last convention with France, ceding Louisiana to the United States, and from a presumption that the line to be run in pursuance of the fifth article might thence be found or alleged to abridge the northern extent of that acquisition.

It may reasonably be expected, that the British government will make no difficulty in concurring in this alteration, because,

First. It would be unreasonable that any advantage against the United States should be constructively authorized by the posteriority of the dates in question, the instructions given to enter into the convention, and the understanding of the parties at the time of signing it, having no reference whatever to any territorial rights of the United States acquired by the previous convention with France, but referring merely to the territorial rights as understood at the date of the instructions for and signature of the British convention. The copy of a letter from Mr. King, hereto annexed, is precise and conclusive on this subject.

Secondly. If the fifth article be expunged, the north boundary of Louisiana will, as is reasonable, remain the same in the hands of the United States as it was in the hands of France, and may be adjusted and established according to the principles and authorities, which would in that case have been applicable.

Thirdly. There is reason to believe that the boundary between Louisiana and the British territories north of it were actually fixed by commissioners appointed under the treaty of Utrecht, and that this boundary was to run from the Lake of the Woods westwardly in lat. 49, in which case the fifth article would be nugatory, as the line from the Lake of the Woods to the nearest source of the Mississippi, would run through territory which on both sides of the line would belong to the United States. Annexed is

a paper stating the authority on which the decision of the commissioners under the treaty of Utrecht rests, and the reasoning opposed to the construction making the 49th deg. of latitude the northern boundary of Louisiana, with marginal notes in support of that construction. This paper will put you more readily into possession of the subject, as it may enter into your discussions with the British government. But you will perceive the necessity of recurring to the proceedings of the commissioners, as the source of authentick information. These are not within our reach here, and it must consequently be left to your own researches and judgment to determine the proper use to be made of them.

Fourthly. Laying aside, however, all the objections to the fifth article, the proper extension of a dividing line in that quarter will be equally open for friendly negotiation after, as without, agreeing to the other parts of the convention ; and considering the remoteness of the time at which such a line will become actually necessary, the postponement of it is of little or no consequence. The truth is that the British government seemed at one time to favour this delay, and the instructions given by the United States readily acquiesced in it. The annexed extracts from Mr. King's and Mr. Gore's letters will, with that from the department of state, explain this observation.

The fourth article of the convention provides, that the commissioners shall be respectively paid in such manner as shall be agreed between the two parties, such agreement to be settled at the time of the exchange of ratifications. It has been supposed that the compensation allowed to the commissioners under the treaty of amity, commerce, and navigation, who settled the St. Croix boundary, would be satisfactory to the British government ; and upon this idea the estimate, of which a copy is enclosed, was framed as the basis of an appropriation to be asked from Congress. The President authorizes you, therefore, to agree to the sum mentioned therein, viz. 4,441 dollars and 44 cents, to be paid by each government to the commissioner appointed by itself, the same sum being allowed the third commissioner, to be paid to him in equal portions by the two governments. Should, however, the British government insist upon a variation of the compensation from the sum

above mentioned, you may consent to it, provided it does not exceed 6,666 dollars and 66 cents, each party contributing equally to the payment, and each commissioner receiving the same sum as his colleagues.

I have the honour to be, &c.

JAMES MADISON.

EXTRACT.

*Mr. Madison, Secretary of State, to Mr. Monroe. Department of State, March 5, 1804.*

“THE treaty of 1794, so far as it relates to commerce, having expired on the 1st day of October last, (that being the date of the preliminary articles) the commercial intercourse between the two countries is left to the regulations which the parties separately may think fit to establish. It may be expected, however, that the friendship and mutual interest between them will produce a continuance on both sides of such regulations as are just and equal, and an accommodation to those principles of such as, on either side, are otherwise than just and equal. On the side of the United States, their commercial regulations place Great Britain in every respect on the footing of the most favoured nation. Great Britain cannot say as much with respect to hers. One instance at least is explained in a letter from this department to Mr. King, of which a copy is enclosed, in which you will see, that, although the act of parliament to which it refers be no longer a breach of stipulation, it is not less a violation of equality than it is of sound policy. With respect to the British West Indies, it is not known that the United States are on a worse footing than other nations, whatever want of reciprocity there may be to the liberal regulations of the United States. With respect to the East India trade, it is understood that the treaty of 1794, by denying to American vessels both the coasting branch of it, and a direct intercourse between India and foreign countries, other than America, the United States were in both instances placed on a worse footing than other nations, and even on a worse footing than they themselves enjoyed prior to the treaty. The expiration of the treaty, and the friendly and favourable equali-

ty allowed by the United States to Great Britain in every branch of their trade, ought certainly to restore what the treaty suspended.

“ These observations are made not with a view to any negotiation whatever, leading at the present moment to a treaty on those or any other commercial points, or to discussions which might be misconstrued into a wish to take unreasonable advantage of a critical moment, but to enable you to present the ideas of your government with more precision, to vindicate our commercial policy against misconceptions, and to avail yourself the better of fit occasions for obtaining from the British government such relaxations as may be due to our example, and be calculated to cherish amity and useful intercourse between the two nations.

“ In my letter of                      I stated the reasonableness of admitting American consuls in the dependencies of Great Britain, whenever and wherever the American commerce should be admitted. The principle urged in this case is applicable to the East as well as to the West Indies. During the last war an American agent was informally at least allowed to reside at Calcutta and take care of the trade of his countrymen. Mr. Jacob Lewis, who was appointed to succeed him, proceeded to London on his way thither, but peace having intervened, his application for an exequatur was refused. It is of real importance to our trade with that country, that such a functionary should be permitted to reside in it; the more so if it be true that the rule forbidding foreign factors to do so be enforced there. Be so good as to sound the British government on this subject, and communicate its sentiments for the information of the President.”

*Extract of a Letter from Mr. Madison to Mr. Monroe.  
Department of State, March 6, 1805.*

SIR,—“ The experience of every day shows more and more the obligation on both sides to enter seriously on the means of guarding the harmony of the two countries against the dangers, with which it is threatened by a perseverance of Great Britain in her irregularities on the high seas, and particularly in the impressments from American vessels.

The extent in which these have taken place since the commencement of the war will be seen by the enclosed report, required from this department by a vote of the House of Representatives ; and the call for it, whilst negotiations on the subject were understood to be in train, is itself a proof of the publick sensibility to those aggressions on the security of our citizens and the rights of our flag. A further proof will be seen in the motion, also enclosed, which was made by Mr. Crowninshield, and which will probably be revived at the next session. This motion, with his remarks on it, appear very generally in the newspapers, with comments proceeding from a coincidence of the sensibility out of doors with that within. A still stronger proof of impatience under this evil will be found in the proceedings authorized by an act of Congress just passed, and which is likewise enclosed, against British officers committing on the high seas trespasses or torts on board American vessels, offences manifestly including cases of impressment.

“ In communicating these circumstances, it will occur to you, that whilst they may be allowed to proclaim the growing sensibility of the United States on the subject of impressments, they ought, by proper explanations and assurances, to be guarded against a misconstruction into marks of illiberal or hostile sentiments towards Great Britain. The truth is, and it may be so stated by you, that this practice of impressments, aggravated by so many provoking incidents, has been so long continued, and so often in vain remonstrated against, that, without more encouragement than yet appears to expect speedy redress from the British government, the United States are in a manner driven to the necessity of seeking for some remedy dependent on themselves alone. But it is no less true that they are warmly disposed to cherish all the friendly relations subsisting with Great Britain ; that they wish to see that necessity banished by just and prudent arrangements between the two governments ; and that with this view you were instructed to open the negotiations which are now depending. It is impossible for the British government to doubt the sincerity of these sentiments. The forbearance of the United States, year after year, and war after war, to avail themselves of those obvious means, which, without violating their national obligations of any sort, would appeal in the strongest manner to the interest of Great Bri-

tain, is of itself a sufficient demonstration of the amicable spirit which has directed their publick councils. This spirit is sufficiently manifested also by the propositions which have been lately made through you, and by the patience and cordiality with which you have conducted the negotiation. I might add, as a further proof to the same effect, that, notwithstanding the refusal of which we have official information, from Glasgow and Liverpool particularly, to restore American seamen deserting their ships in British ports, the laws of many of the states have been left, without interruption, to restore British deserters. One of the states, Virginia, has, even at the last session of its legislature, passed an act for the express purpose of restoring such deserters, which deserves the more attention as it was done in the midst of irritations resulting from the multiplied irregularities committed by British ships in the American seas.

“Mr. Merry has expressed some inquietude with respect to the clause in the act above referred to, which animadverts on British trespasses on board American vessels; and his language on several late occasions has strongly opposed the expectation, that Great Britain will ever relinquish her practice of taking her own subjects out of neutral vessels. I did not conceal from him my opinion that the terms “trespass, &c.” would be applicable to the impressment of British subjects as well as others, or that the United States would never accede to that practice. I observed to him, that every preceding administration had maintained the same doctrine with the present on that point, and that such were the ideas and feelings of the nation on it, that no administration would dare so far to surrender the rights of the American flag. He expressed dissatisfaction also at the section, which requires certain compliances on the part of British ships of war entering our harbours with arrangements to be prescribed by the collectors. He did not deny the right of the nation to make what rules it might please in such cases, but apprehended that some of them were such as the commanders might deem incompatible with their just pretensions, especially when subjecting them to the discretion of so subaltern an authority as that of the collectors, and consequently that the law would have the unfriendly effect of excluding British ships of war altogether from American ports. He was reminded in reply,



that the collectors were, according to the terms of the section, to be guided in the exercise of their power by the directions of the President; and it was not only to be presumed, but he might be particularly assured, that the directions given would be consistent with the usages due to publick ships, and with the respect entertained for nations in amity with the United States. He asked whether, in transmitting the act to his government, as his duty would require, he might add the explanation and assurances he had heard from me. I answered, that, without having received any particular authority for that purpose from the President, I could safely undertake that what I had stated was conformable to his sentiments.

“Enclosed is another act of Congress, restraining and regulating the arming of private vessels by American citizens. This act was occasioned by the abuse made of such armaments in forcing a trade, even in contraband of war, with the island of St. Domingo, and by the representations made on the subject of that trade by the French charge des affaires and minister here, and by the British minister, with respect to abuses which had resulted or might result from such armaments, in cases injurious to Great Britain. A report of these representations, as made to the President, is herewith enclosed. The act, in substituting a security against the unlawful use of the armaments in place of an absolute prohibition of them, is not only consistent with the obligations of a neutral nation, but conformable to the laws\* and ordinances of Great Britain and France themselves, and is consequently free from objections by either. The interposition of the government, though claimed in behalf both of Great Britain and of France, was most pressed in behalf of the latter. Yet the measure, particularly as it relates to the shipment of contraband articles for the West Indies, is likely to operate much more conveniently for Great Britain than for France, who cannot, like Great Britain, otherwise ensure a supply of these articles for the defence of their colonies.

“In the project which you have offered to the British government, I observe you have subjoined a clause for

\* See act of parliament 35 G. 3, c. 92, s. 37—3, and Valin's Commentaries Liv. 1, Tit. 10, art. 1.

securing respect to certificates of citizenship. The effect of this clause, taken as it ought to be, and as was doubtless intended, in context with the preceding clause, is limited to the case provided for in that clause. Still it may be well, in order to guard against the possibility of its being turned into a pretext for requiring such certificates in other cases, that a proviso for the purpose be added, or that words of equivalent restriction be inserted.

“Another subject requiring your attention is pointed at by the resolutions of the Senate, moved by general Smith, on the subject of a British tax on exports, under the name of a convoy duty. A copy of the resolution is enclosed. A duty under that name was first laid in the year 1798. It then amounted to half of one per cent. on exports to Europe, and one per cent. on exports to other places, and consequently to the United States. The discrimination, being evidently contrary to the treaty then in force, became a subject of discussion between Mr. King and the British ministry. His letters to the Secretary of State, and to lord Grenville, explain the objections urged by him, and the pretexts in support of the measure alleged by them. The subject was resumed in my letter of 5th March, 1804, to Mr. King, with a copy of which you have been already furnished. It was received by Mr. Gore, during the absence of Mr. King on the continent; and if any occasion was found proper by either for repeating the remonstrance against the duty, it appears to have been without effect. Whilst the treaty was in force, the discrimination was unquestionably a violation of its faith. When the war ceased, it lost the pretext that it was the price of the convoy, which, giving a longer protection to the American than to the European trade, justified a higher price for the former than for the latter. Even during war, the exports are generally made as American property, and in American vessels, and therefore, with a few exceptions only, a convoy which would subject them to condemnation, from which they would otherwise be free, would be not a benefit, but an injury. Since the expiration of the treaty, the discrimination, as well as the duty itself, can be combated by no other arguments than those, which, in the document referred to, are drawn from justice, friendship, and sound policy; including the tendency of the measure to produce a discontinuance of the liberal, but

unavailing example given to Great Britain, by the regulations of commerce on our side, and a recurrence to such counteracting measures as are probably contemplated by the mover of the resolutions of the Senate. All these arguments gain strength, in proportion to the augmentations which the evil has latterly received ; it being now stated that the duty amounts to four per cent. on the exports to the United States. These, according to Coxé's answer to Sheffield, amounted, in the year 1801, to about seven and a half millions sterl. and therefore levy a tax on the United States of about \$1,300,000. From this is indeed to be deducted a sum proportioned to the amount of re-exportations from the United States. But, on the other hand, is to be added the increase of the exports since the year 1801, which probably exceed the re-exportations.

"With the aid of these communications and remarks, you will be at no loss for the views of the subject most proper to be presented to the British government, in order to promote the object of the resolutions ; and the resolutions themselves ought powerfully to second your efforts, if the British government feels the same desire, as actuates the United States, to confirm the friendship and confidence on both sides by a greater conformity on that side to the spirit of the commercial regulations on this.

"I have referred above to the enclosed copy of the motion made by Mr. Crowninshield in the House of Representatives. The part of it which has relation to the trade with the West Indies was suggested, as appears in his introductory observations, by the late proclamations of the British West India governours, excluding from that trade vessels of the United States, and certain articles of our exportations, particularly fish, even in British vessels. These regulations are to be ascribed partly to the attachment of the present administration in Great Britain to the colonial and navigation system, partly to the interested representations of certain merchants and others residing in the British provinces on the continent. Without entering at large into the policy on which the colonial restrictions are founded, it may be observed that no crisis could be more ineligible for enforcing them, than the present, because at none more than the present have the West

Indies been absolutely dependent on the United States for the supplies essential to their existence. It is evident in fact, that the United States, by asserting the principle of a reasonable reciprocity, such as is admitted in the trade with the European ports of Great Britain, and as is admitted even in the colonial trade of other European nations, so far at least as respects the vessels employed in the trade, might reduce the British government at once to the dilemma of relaxing her regulations or of sacrificing her colonies; and with respect to the interdict of supplies from the United States of articles necessary to the subsistence and prosperity of the West Indies, in order to force the growth and prosperity of the continental provinces of Nova Scotia, &c. what can be more unjust than thus to impoverish one part of the foreign dominions, which is considered as a source of wealth and power to the parent country, not with a view to favour the parent country, but to favour another part of its foreign dominions which is rather expensive than profitable to it? What can be more preposterous than thus, at the expense of islands which not only contribute to the revenue, commerce and navigation of the parent state, but can be secured in their dependence by that naval ascendancy which they aid, to foster unproductive establishments?

“Considerations, such as these, ought to have weight with the British government, and may very properly enter into frank conversations with its ministry on favourable occasions. However repugnant that government may be to a departure from its system, in the extent contemplated by Mr. Crowninshield’s motion, it may at least be expected, that the trade, as opened in former wars, will not be refused under circumstances which, in the present, particularly demand it. It may be hoped that the way will be prepared for some permanent arrangement on this subject between the two nations, which will be conformable to equity, to reciprocity, and to their mutual advantage.

“I have the honour to be, &c.

JAMES MADISON.”

*From Mr. Madison, Secretary of State, to Mr. Monroe,  
Minister Plenipotentiary of the United States at London.  
Department of State, April 12, 1805.*

[This letter is printed in vol. v. p. 212 to 218, except the concluding paragraph, which follows:]

The effect of the doctrine, involved in the sentence of the court in Newfoundland, on our carrying trade, will at once be seen by you. The average amount of our re-exportations for three years, ending 30 September, 1803, has been 32,003,921 dollars. Besides the mercantile and navigation profits, the average revenue from drawbacks, on goods re-exported for three years, ending 31st December, 1803, is 124,271 dollars, to which is to be added an uncertain but considerable sum, consisting of duties paid on articles re-exported, after having lost, through neglect or lapse of time, the privilege of drawback. A very considerable portion of this branch of trade, with all its advantages, will be cut off, if the formalities, heretofore respected, are not to protect our re-exportations. Indeed it is difficult to see the extent, to which the apprehended innovation may be carried in theory, or to estimate the mischief, which it may produce in practice. If Great Britain, disregarding the precepts of justice, suffers herself to calculate the interest she has in spoliating or abridging our commerce by the value of it to the United States, she ought certainly not to forget that the United States must, in that case, calculate by the same standard the measures which the stake will afford for counteracting her unjust and unfriendly policy.

I have the honour to be, &c.

JAMES MADISON.

*Mr. Madison to Mr. Monroe. Department of State, Jan.  
13, 1806.*

SIR,—The letters received from you, since my last, are down to No. 36, inclusive.

The perseverance of the British government in the principle which licenses the depredations on our commerce in colonial productions, with the losses already sustained, and still apprehended by our merchants, has produced a very general indignation throughout this country, and makes it necessary that you should renew and extend your remonstrances on the subject. In aid of the means for this purpose, furnished by the information and instructions given you from time to time, I forward you an examination of it just published, in which you will find a variety of facts and views of the British principle and proceedings that may be made to bear against them. I will forward, also, in a few days, copies of sundry memorials from the merchants of our maritime cities, explaining the wrongs done them, and the disgust with which they are filled. These, with other documents accompanying them, will assist your endeavours to make on the British government the impressions which the occasion calls for.

I shall only add at present, that, notwithstanding the conviction of the illegality of the British principle, which becomes more and more evident the more it is investigated, the President so far yields to a spirit of conciliation, as to be still willing to concur in the adjustment on that point authorized in your instructions of January 5th, 1804; but expects and enjoins that you will be particularly careful to use such forms of expression, as will furnish no pretext for considering an exception of the direct trade between a belligerent nation and its colonies as *declaratory* of a limitation of the neutral right, and not a positive stipulation founded on considerations of expediency.

I have the honour to be, &c.

JAMES MADISON.

*Mr. Madison to Mr. Monroe. Department of State, April 23, 1806.*

SIR,—Your last letter bears date on the 12th of February. Those of the 18th October, 11th, 26th November, 11th and 23d December, and 28th January, had been previously received.



Congress adjourned the evening before the last. The gazettes, before and herewith sent, will give you a general view of the proceedings of the session. As soon as the laws passed shall be ready, a complete copy of them will be forwarded. For the present I enclose only a copy of the act shutting our market, after the 15th Nov. next, against certain articles of British manufacture. Notwithstanding the hope that the new ministers of Great Britain bring into the cabinet dispositions more just and favourable to the United States than their predecessors, it was thought most consistent both with self respect and with sound policy not to allow a change of persons, without an actual or promised change of measures, to arrest the meditated course of remedial provisions. You will not fail, however, by due explanations, to guard the act against the imputation of motives and views of a nature to excite feelings on the other side, unfriendly to a fair estimate of their true interests. You may with confidence affirm, that a resort to such a manifestation of the sensibility of this country to wrongs so long continued, and of late so grievously extended, has been had with the most sincere reluctance; and that nothing is necessary on the part of Great Britain, to smoothe the way to perfect cordiality, and to all the beneficial intercourses of commerce, but a redress, which the United States are willing to limit to the clearest demands of justice and right. As a proof of their solicitude to bring about a final and amicable adjustment of all points in question between the two countries, and of their readiness to establish the principles of navigation and commerce in a form that will extend the latter, and render the former no longer a source of discord, the measure has been adopted of appointing yourself, and Mr. Pinkney, of Baltimore, commissioners extraordinary and plenipotentiary for those purposes. The objects of the appointment, as described in the terms of it, are "to settle all matters of difference between the United States and the united kingdom of Great Britain and Ireland, relative to wrongs committed between the parties on the high seas, or other waters, and for establishing the principles of navigation and commerce between them."

No time will be lost in preparing the instructions for your joint negotiation; and Mr. Pinkney will doubtless

not fail to be ready to embark with as little delay as possible.

With great respect, &c.

JAMES MADISON.

*Extract of a Letter from Mr. Madison, to Mr. Monroe.  
May 15, 1806.*

“SINCE my last, of the 23d of April, I have received your several letters of the 28th February and 11th March.

“This will be put into the hands of Mr. Pinkney, whose appointment jointly with you, by a commission extraordinary, has been already communicated, and who proceeds to London with the powers and instructions for carrying the joint commission into effect. This you will find embraces a larger field of negotiation and convention, than fell within the instructions heretofore given you, in your capacity of minister plenipotentiary alone. The commission extraordinary, therefore, will not be without important objects, even if those previously committed to yourself should fortunately have been obtained. Mr. Pinkney carries with him also a commission and letter of credence, as your successor, in case you should persist in your intention of returning, after the occasion which suspended it shall be over. A letter of farewell, also, for yourself, goes by him, of the same provisional character.

“As the joint commission does not include the subject of the convention of limits, not yet acceded to by Great Britain, as varied by the Senate here, it will remain with you alone, or your successor, to continue the endeavours to bring that business to a conclusion.

“If any repugnance should be shown to the erasure of the 5th article, as proposed by the Senate, and thereby leaving unsettled, for the present, the boundaries in the north west quarter of the Union, and preference should be given to a proviso against any constructive effect of the Louisiana convention on the intention of the parties at the signature of the depending convention, you may concur in the alteration, with a view to bring the subject in that form before the ratifying authority of the United States.

"I must observe to you, however, that either another proviso, or a clear understanding to the same effect, or at least an understanding that the question is open for future settlement, will be proper, in order to supersede pretensions which the British government may otherwise found on their possession of the island of Grand Menan, and the silence of the instrument with respect to it. This island is of considerable extent, is clearly within the general limits of the United States as fixed by the treaty of peace, and is understood not to be within the exception made by the treaty, of islands appurtenant to Nova Scotia, since all such islands must be either west, east, or north of the coast of that province, and within six leagues thereof; whereas the island of Grand Menan is nearly due south of the nearest part of the coast, and is either in the whole or with the exception of a mere point, beyond the distance of six leagues. No just title can therefore be alleged on the British side, and care would have been taken to guard against a pretended one by a clause to that effect, if the facts of British settlement, and the exercise of British jurisdiction had been known at the time. The documents now transmitted will sufficiently explain the subject, and enable you to annex a proper clause to the convention. One of these documents will give you a view at the same time of a late case, in which an American vessel, bringing plaster of paris from Nova Scotia to the United States, was condemned. In strictness of law the condemnation may have been not objectionable, but considering the continuance of the trade for a length of time, and the official sanction added to the usage, the case makes a very strong appeal to the equity and liberality of the British government. The dependence of the British settlements in that quarter on supplies from the United States, more essential to them than plaster is to us, suggests other considerations not unworthy of attention. These, however, will be brought most advantageously into view in one of the branches of the joint negotiation."

*Extract of a Letter from Mr. Madison to Mr. Monroe.  
May 22, 1807.*

“IN my letter of March 18 to the joint commission, it was signified that, in a conventional arrangement on the subject of boundaries, it would be inconsistent with the views of the President, to open any part of Louisiana to a British trade with the Indians. From the evident solicitude of the British government on this point, it is highly probable that the determination of the President will be a bar to any adjustment of that part of the differences between the two countries; nor is it very probable, considering the jealousy and want of information on the British side, that, independently of that obstacle, the adjustment would at this time be concluded. That you may not, however, be without any information which might contribute to its accuracy, or put you on your guard against propositions militating against any of our just pretensions, I transmit herewith copies of a communication from the governor of New York, and of another from the governor of Vermont. With respect to the last it may be sufficient merely to save the right of correcting the alleged error at a future day. With respect to the subject of the former, it may be proper either to leave that also open to future discussion, or rather to provide for a joint examination and report relative to the islands and channels in the St. Lawrence, &c. The most obvious and convenient demarcation would seem to be the channel best fitted for navigation. But as a more equal division of the islands might possibly be made without losing sight of a sufficient channel for common use, and as military positions may be involved in the case, it may be most safe and satisfactory to both parties, to proceed on more thorough and impartial information than is now possessed by either. I address these communications to our ordinary minister at London, merely because the subject has not been formally transferred to the joint commissioners. They will of course be for the use of the latter, if this branch of the negotiation should remain in their hands.”

*Extract of a Letter from Mr. Monroe to Mr. Madison,  
London, March 13, 1804.*

"I SHALL pay all the attention to the instructions contained in your letter of the 5th of January, which is due to their great importance. As soon as I am sufficiently possessed of the subject, I shall ask a conference with lord Hawkesbury, to propose to his government a convention between the two nations for the adjustment of the points, and on the principles of the project you have sent me. I hope to be able to commence the business in a week or ten days, and flatter myself that the negotiation will be productive of real advantage to the United States. Should it even not succeed in all its objects, the attempt must nevertheless be considered as a very satisfactory proof of a strong desire in our government to preserve, on just ground, the friendship of this country, and is likely, by the explanations to which it may lead alone, to have that tendency. I am, however, far from thinking it improbable, that a suitable convention may be formed especially on some of the points that are deemed interesting."

*Extract of a Letter from Mr. Monroe to Mr. Madison.  
London, April 15, 1804.*

"Soon after my last, I requested an interview with lord Hawkesbury, which took place on the 2d instant, in which I informed him that I had received your instructions to propose to his government the regulation by convention of certain points, which I was persuaded both countries would find their advantage in placing on explicit and equitable ground. I stated to his lordship the concerns it was desired thus to regulate, in which I complied strictly with your views, and assured him that the object of the President was, to fix the friendship of the two nations on the most solid basis by removing every cause, which had a tendency in their intercourse or other relations, especially in time of war, to disturb it. In the conversation I entered into detail on every point, in which I was met by his lordship with an apparent candour, the sincerity of

which I had no reason to doubt, which manifested a disposition equally strong in favour of the professed, and indeed real object of the proposed negotiation. He requested me in the conclusion to furnish him a project, which he promised to submit to his cabinet, and to communicate to me the result of its deliberations on it as soon as he could. I have since sent him a project, but too recently to admit my obtaining an answer to it. I am inclined to think, from what passed in the conference, that some advantage may be fairly expected from the negotiation. His lordship did not bind himself to any thing it is true; he even went so far as to express a wish that the principles of our treaty of 1794 might be adopted in the present convention, where they applied; and an expectation, that if the accommodation which had been given in certain cases to the northern powers should be stipulated in our favour, that we should accord fully what they had yielded in return. Although I was very desirous to do justice to the moderate and friendly views of our government on the occasion, yet I did not fail to give him to understand that I could not accede to his idea in either case. I shall endeavour to bring the business to a conclusion and apprise you of the result as soon as possible, when I shall also communicate fully and in detail an account of what passes between us in the course of the transaction."

I am, with great respect, &c.

JAMES MONROE.

*Extract of a Letter from Mr. Monroe to Mr. Madison.  
London, August 7, 1804.*

"I RECEIVED a note from lord Harrowby on the 3d instant, requesting me to call on him at his office the next day, which I did. His lordship asked me, in what light was our treaty viewed by our government. I replied that it had been ratified with the exception of the fifth article, as I had informed him on a former occasion. He observed that he meant the treaty of 1794, which by one of its stipulations was to expire two years after the signature of preliminary articles for concluding the then existing war between Great Britain and France. He wished to know, whether we considered the treaty as actually expired. I



said, that I did presume there could be but one opinion on that point in respect to the commercial part of the treaty, which was, that it had expired: that the first ten articles were made permanent; that other articles had been executed, but that then, being limited to a definite period which had passed, must be considered as expiring with it. He said it seemed to him doubtful, whether the stipulation of the treaty had been satisfied by what had occurred since the peace: that a fair construction of it might possibly require an interval of two years peace after the war, which had not taken place in point of form, much less so in fact, for the state of things which existed between the countries through that period was far from being a peaceable one. I informed his lordship, that the distinction had never occurred to us, though certainly it would receive from our government all the consideration which it merited, especially if it was relied on, on his part. After some further conversation, he seemed to admit that the construction he had suggested of the stipulation referred to was rather a forced one; that by the more obvious import of the article the commercial part of the treaty must be considered as having expired. What then, says he, is the subsisting relation between the two countries? Are we in the state we were at the close of the American war? By what rule is our intercourse to be governed respecting tonnage, imposts and the like? I said, that the law in each country, as I presumed, regulated these points. He replied, that the subject was nevertheless under some embarrassment here. He asked, how far it would be agreeable to our government to stipulate, that the treaty of 1794 should remain in force until two years should expire after conclusion of the present war? I told his lordship, that I had no power to agree to such a proposal; that the President, animated by a sincere desire to cherish and perpetuate the friendly relations subsisting between the two countries, had been disposed to postpone the regulation of their general commercial system, till the period should arrive, when each party, enjoying the blessings of peace, might find itself at liberty to pay the subject the attention it merited; that he wished those regulations to be founded in the permanent interests, justly and liberally viewed, of both countries; that he sought for the present only to remove certain topicks which produced irritation in the intercourse, such as the

impressment of seamen, and in our commerce with other powers, parties to the present war, according to a project which I had had the honour to present his predecessor some months since, with which I presumed his lordship was acquainted. He seemed desirous to decline any conversation on this latter subject, though it was clearly to be inferred, from what he said, to be his opinion, that the policy, which our government seemed disposed to pursue in respect to the general system, could not otherwise than be agreeable to his. He then added, that his government might probably, for the present, adopt the treaty of 1794, as the rule in its own concerns, or in respect to duties on importations from our country, and, as I understood him, all other subjects to which it extended; in which case, he said, if the treaty had expired, the ministry would take the responsibility on itself, as there would be no law to sanction the measure: that in so doing, he presumed that the measure would be well received by our government, and a similar practice, in what concerned Great Britain, reciprocated. I observed, that on that particular topic I had no authority to say any thing specially, the proposal being altogether new and unexpected; that I should communicate it to you; and that I doubted not that it would be considered by the President with the attention it merited. Not wishing, however, to authorize an inference, that that treaty should ever form a basis of a future one between the two countries, I repeated some remarks which I had made to lord Hawkesbury in the interview which we had just before he left the department of foreign affairs, by observing that in forming a new treaty we must begin de novo; that America was a young and thriving country; that at the time that treaty was formed, she had had little experience of her relations with foreign powers; that ten years had since elapsed, a great portion of the term within which she had held the rank of a separate and independent nation, and exercised the powers belonging to it; that our interests were better understood on both sides at this time than they then were; that the treaty was known to contain things that neither liked; that I spoke with confidence on that point on our part; that in making a new treaty we might ingraft from that into it what suited us, omit what we disliked, and add what the experience of our respective interests might suggest to be proper; and

being equally anxious to preclude the inference of any sanction to the maritime pretensions of Great Britain under that treaty, in respect to neutral commerce, I deemed it proper to advert again to the project, which I had presented some time since, for the regulation of these points, to notice its contents, and express an earnest wish, that his lordship would find leisure and be disposed to act on it. He excused himself again from entering into this subject, from the weight and urgency of other business, the difficulty of the subject, and other general remarks of the kind. I told him, that the most urgent part of the subject was that which respected our seamen; that our government wished to adopt a remedy which would be commensurate with the evils complained of by both countries. His government complained that deserters from their ships in America were not restored to them; ours, that our seamen were impressed in their ports (those of G. B.) and on the high seas, in our vessels, and sometimes in our bays and rivers; that such injuries ought to be put an end to, and that we were willing to adopt a fair and efficacious remedy for the purpose. He said he was afraid, however well disposed our government might be to give the aid of the civil authority to restore deserters to their vessels in the United States, that little advantage could be derived from such a stipulation. The bias and spirit of the people would be against it, with us, as it was here, under favour of which deserters would always find means to elude the most active search of the most vigilant peace officers. I replied, that I did not think the difficulty would be found so great as he supposed; that our people were very obedient to the law in all cases; that as soon as the apprehension and restoration of deserting seamen to their vessels was made a law, as it would be, by becoming the stipulation of a treaty, the publick feeling on that point would change, especially when it was considered as the price of a stipulation which secured from impressment their fellow citizens, who might be at sea, or in a foreign country; that sailors never retired far into the interior, or remained where they went long, but soon returned to the seaport towns to embark again in the sea service; that it was not likely they would be able to elude the search of the magistracy, supported as it would be by the government itself. I found, on the whole, that

his lordship did not wish to encourage the expectation, that we should agree in any arrangement on this head, though he was equally cautious not to preclude it. I left him without asking another interview, and the affair, of course, open to further communication."

*Project of a Convention presented to Lord Hawkesbury,  
April 7, 1804.*

ARTICLE 1. No person shall, upon the high seas, and without the jurisdiction of the other party, be demanded or taken out of any ship or vessel, belonging to citizens or subjects of one of the parties, by the publick or private armed ships belonging to, or in the service of the other, unless such person be at the time in the military service of an enemy of such other party.

2. No person, being a subject or citizen of one of the parties, and resorting to, or residing in the dominions of the other, shall, in any case, be compelled to serve on board any vessel, whether publick or private, belonging to such other party; and all citizens and subjects whatever of the respective parties, at this time compulsively serving on board the vessels of the other, shall be forthwith liberated and enabled by an adequate recompense to return to their own country.

A certified list of the crew, or protection from either government, in such form as they shall respectively prescribe, showing that the person claiming under it is a citizen or subject of either power, shall be deemed satisfactory evidence of the same. And in all cases where these documents may have been lost, destroyed, or by casualty not obtained, and any person claims to be a citizen or subject of either power, such other evidence of said claim shall be received and admitted, as would be satisfactory in a court of judicature.

3. If the ships of either of the parties shall be met sailing either along the coasts or on the high seas by any ship of war, or other publick or private armed ship of the other party, such ships of war, or other armed vessels, shall, for avoiding all disorder in visiting and examining the same, remain out of cannon shot, unless the state of the sea or place of meeting render a nearer approach ne-

cessary, and shall in no case compel or require such vessel to send her boat, or her papers, or any person from on board to the belligerent vessel; but the belligerent vessel may send her own boat to the other, and may enter her, to the number of two or three men only, who may in an orderly manner examine the same; and it is agreed that effectual provision shall be made for preventing violations of any part of this article.

4. In order to determine what characterizes a blockaded port, that denomination is given only to a port where there is, by the dispositions of the power which attacks it with ships stationary or sufficiently near, an evident danger in entering.

5. It is agreed, that no vessel sailing from the ports of either party shall, although cleared and bound to a blockaded port, be considered as violating in any manner the blockade, unless in her approach towards such port she shall have been previously warned against entering the same.

6. It is agreed, that no refuge or protection shall be afforded by either party to the mariners, sailors, or other persons, not found to be its own citizens or subjects, who shall desert from a vessel of the other party, of the crew whereof the deserter made a part; but on the contrary all such deserters shall be delivered up on demand to the commanders of the vessels from which they shall have deserted, or to the commanding officers of the ships of war of the respective nations, or to such other persons as may be duly authorized to make requisition in that behalf, provided that proof be made, within two years from the time of desertion, by an exhibition of the ship's papers, or authenticated copies thereof, and by satisfactory evidence of the identity of the person, that the deserters so demanded, were actually part of the crew of the vessels in question.

And for the more effectual execution of this article, adequate provision shall be made for causing to be arrested, on the application of the respective consuls, or vice consuls, to the competent authorities, all deserters duly proved to be such, in order that they may be sent back to the commanders of the vessels to which they belonged, or removed out of the country, at the request and expense of the said consuls, or vice consuls, until they shall have



found an opportunity of sending them back, or removing them as aforesaid. But if they be not so sent back or removed, within three months from the day of their arrest, they shall be set at liberty, and shall not again be arrested for the same cause.

7. This convention shall be in force for the term of five years from the date of the exchange of ratifications. It shall be ratified on both sides within three months from the date of its signature, or sooner, if possible, and the ratifications exchanged without delay in the United States, at the city of Washington.

*Paper respecting the Boundary of the United States, delivered to Lord Harrowby, Sept. 5, 1804.*

By the 10th article of the treaty of Utrecht it is agreed, "that France shall restore to Great Britain the bay and straits of Hudson, together with all lands, seas, sea coasts, rivers, and places situate in the said bay and straits which belong thereunto, &c."

It is also agreed, "that commissaries shall be forthwith appointed by each power to determine, within a year, the limits between the said bay of Hudson and the places appertaining to the French; and also to describe and settle, in like manner, the boundaries between the other British and French colonies in those parts."

Commissaries were accordingly appointed by each power, who executed the stipulations of the treaty in establishing the boundaries proposed by it. They fixed the northern boundary of Canada and Louisiana by a line beginning on the Atlantick, at a cape or promontory in 58 degrees 30 minutes north latitude, thence south westerly to the lake Mistasin, thence further south west to the latitude 49 degrees north from the equator, and along that line indefinitely.

At the time this treaty was formed, France possessed Canada and Louisiana, which she connected by a chain of forts extended from the mouth of the Mississippi, on all its waters, and on the lakes, along the St. Lawrence to Montreal. Her encroachments eastward on the territory of the present United States, then British provinces, extended to the foot of the Alleghany mountain. It is well



known that on the Ohio, at a point formed by the confluence of the Alleghany and Monongahela branches, below which the stream takes the name of Ohio, that the French had built a fort which was called Duquesne : a fort which has been better known since by the name of Pittsburg. The adjustment of the boundary of the territory between the two powers in this quarter was the result of another war and another treaty.

By the 4th article of the treaty of 1763, France ceded to Great Britain, Canada, Nova Scotia, &c. in the north, and by the 7th article the bay and port of Mobile, and all the territory which she possessed to the left of the Mississippi, except the town and island of New Orleans.

By the 7th article it was also stipulated, that a line to be drawn along the middle of the Mississippi from its source to the river Iberville, and thence along the middle of that river and the lakes Maurepas and Pontchartrain to the sea, should be the boundary between the British territory to the eastward and Louisiana to the west. At that time it was understood, as it has been ever since, till very lately, that the Mississippi took its source in some mountain, at least as high north as the 49th degree of north latitude.

By the treaty of 1783 between the United States and Great Britain, the boundary between those states and Nova Scotia and Canada is fixed by a line which is to run along the St. Croix and Highlands, bounding the southern waters of the St. Lawrence, the 45th degree of latitude to the water communication between the lakes, and along that communication to the Lake of the Woods, and through that lake to the north western point thereof, thence a due west course to the Mississippi. The line follows afterwards the course of the Mississippi to the 31st degree of north latitude.

By Mitchell's map, by which the treaty of 1783 was formed, it was evident that the north western point of the Lake of the Woods was at least as high north as the latitude 49. By the observations of Mr. Thompson, astronomer to the North Western Company, it appears to be in latitude 49 degrees 37 minutes. By joining then the western boundary of Canada to its northern in the Lake of the Woods, and closing both there, it follows that it was the obvious intention of the ministers who negotiated the trea-

ty, and of their respective governments, that 'the United States should possess all the territory lying between the lakes and the Mississippi, south of the parallel of the 49th degree of north latitude. This is confirmed by the courses which are afterwards pursued by the treaty, since they are precisely those which had been established between Great Britain and France in former treaties. By running due west from the north western point of the Lake of the Woods to the Mississippi it must have been intended, according to the lights before them, to take the parallel of the 49th degree of latitude, as established under the treaty of Utrecht ; and by pursuing thence the course of the Mississippi to the 31st degree of latitude, the whole extent of the western boundary of the United States, the boundary which had been established by the treaty of 1763, was actually adopted. This conclusion is further supported by the liberal spirit which terminated the war of our revolution, it having been manifestly the intention of the parties to heal, as far as could be done, the wounds which it had inflicted. Nor is it essentially weakened by the circumstance, that the Mississippi is called for by the western course from the Lake of the Woods, or that its navigation is stipulated in favour of both powers. Westward of the Mississippi, to the south of the 49th degree of north latitude, Great Britain held then no territory. That river was her western boundary. In running west, and ceding the territory to the river, it was impossible not to call for it ; and on the supposition that it took its source within the limits of the Hudson Bay company, it was natural that it should stipulate the free navigation of the river. But in so doing it is presumed that her government respected more a delicate sense of what it might be supposed to owe to the interest of that company, than any strong motive of policy, founded on the interests of Canada, or its other possessions in that quarter. As Great Britain ceded at the same time the Floridas to Spain, the navigation of the Mississippi by her subjects, if it took place, being under a foreign jurisdiction, could not fail to draw from her own territories the resources which properly belonged to them, and therefore could not be viewed in the light of a national advantage.

After the treaty of 1783, and at the time the convention in contemplation was entered into, the state of things

was as is above stated. The territory, which Great Britain held westward of the Lake of the Woods, was bounded south by the 49th degree of north latitude; that which lay between the Lake of the Woods and the Mississippi southward of that parallel, belonged to the United States; and that which lay to the west of the Mississippi, to Spain. It being, however, understood by more recent discoveries or observations, that the source of the Mississippi did not extend so high north as had been supposed, and Great Britain having shown a desire to have the boundary of the United States modified in such a manner as to strike that river, an article to that effect was inserted in the late convention. But in so doing, it was not the intention of the American minister, or of the British minister, to do more than simply to define the American boundary. It was not contemplated by either of them, that America should convey to Great Britain any right to the territory lying westward of that line, since not a foot of it belonged to her. It was intended to leave it to Great Britain to settle the point as to such territory, or such portion of it as she might want, with Spain, or rather with France, to whom it then belonged. At this period, however, certain measures respecting the Mississippi and movements in that quarter took place, which seemed to menace the great interests of America, that were dependent on that river. These excited a sensibility, acute and universal; of which in equal degree her history furnishes but few examples. They led to a discussion which terminated in a treaty with France, by which that power ceded to the United States the whole of Louisiana, as she had received it of Spain. This treaty took place on the 30th of April, 1803, twelve days only before the convention between Great Britain and the United States was signed, and some days before the adoption of such a treaty was known to the plenipotentiaries who negotiated and signed the convention.

Under such circumstances it is impossible that any right, which the United States derived under that treaty, could be conveyed by this convention to Great Britain, or that the ministers who formed the convention could have contemplated such an effect by it. Thus the stipulation which is contained in the 5th article of the convention has become, by the cession made by the treaty, perfectly nugatory; for as Great Britain holds no territory southward

of the 49th degree of north latitude, and the United States the whole of it, the line proposed by that article would run through a country which now belongs exclusively to the latter.

*Extract of a Letter from Mr. Monroe to Mr. Madison.  
London, October 3, 1804.*

“IN the interview which I had with lord Harrowby, we had much general conversation on the topicks depending between us, which, as it corresponded with what has passed before, and communicated to you, it is unnecessary to repeat. He appeared to agree with me with great sincerity in the advantage to be derived to both countries from the preservation of their present amicable relations, and to be quite satisfied with the state in which the negotiation was left, assuring me that he would not fail to take it up on my return, with an earnest desire to conclude it to the satisfaction of both parties; though he intimated that there was great difficulty attending certain branches of it. He suggested that, as I was forced to go to Spain, he hoped that the suspension would prove equally convenient to us both, to which I assented. He thought it unnecessary for me to go to Weymouth to take leave of the king, as he kept no regular court there, and my absence would be short; he promised, however, to communicate to his majesty my request to be presented to him there, as of his undertaking to prevent it, with which view he desired me to address him a special note to that effect, to be submitted to the king, a copy of which is enclosed.

In the course of this conversation lord Harrowby expressed concern to find the United States opposed to Great Britain on certain great neutral questions, in favour of the doctrines of the modern law, which he termed novelties. I replied, that in adhering to our principles, the President had endeavoured to arrange them in a friendly manner with his government; that he had taken no step of an opposite character; that he had sought no concert with the neutral powers in support of them, as he had supposed that a satisfactory arrangement to both governments might be made by direct communication between them, which he preferred. He observed, that although, while the negotiation was suspended, his govern-

ment would adhere to its principles, yet that it would act, in what concerned us, with moderation in the practice of them.

I informed you in my letter of the 8th of September, that a case had occurred of an American vessel engaged in commerce between Batavia and Holland, as was inferred by her having an European destination, being brought into port and subjected to trial. The case is not yet decided, though in his remarks, while the cause was in hearing before the court, the judge maintained the British doctrine; it was postponed to give time to ascertain what the regulations of the government of Holland were in peace respecting our commerce with that colony. He did not say, if they prohibited the trade, that he would condemn the vessel. It is probable she may be acquitted on some other point in the cause, without impugning that principle. It is understood that several other vessels engaged in the same trade, which were stopped and examined at the Texel by the British cruisers, were permitted to prosecute their voyage; hence it is presumable that orders were given to that effect by the government. It is certain that on no principle or pretext whatever has more than one of our vessels been condemned, on which judgment there is an appeal.

The whole subject is now before the President, on which I have to remark, that, in discharging this trust, I have endeavoured in every stage to give full effect to the feelings and sentiments of my country in respect to the objects in question, especially the unwarrantable practice of impressment, without taking any step which should compromise our government in the part it should take, when the result was submitted to it. In that state the affair now is; for after the expiration of a few months, it is perfectly consistent with it to revive the negotiation in such form as the President may deem advisable. The proceeding here lays a foundation for any course which the publick honour and interest may dictate. If it is deemed expedient in pursuing our just rights to profit of time and circumstances, and in the interim, unless they be secured by a fair and equal treaty, to act with moderation till the occasion invites to a more decisive and hazardous policy, the state of things permits it. Or if it should be deemed more advisable to adopt the latter



course at present, the opportunity is fair for such a measure. The situation, in which our government will find itself on receiving this communication, is a very different one from that in which I have stood throughout. If the latter course is preferred, it cannot be doubted, that the moderation which has been so far observed will strengthen the government in any the most vigorous measures which may be thought necessary.

A virtuous and free people will be more united in support of such measures, however strong they may be, when they see by the clearest evidence that the cause is not only just, but that their government has done every thing in its power, which the national honour and interest would permit, to avoid such an extremity."

*London, August 16, 1805.*

SIR,—I enclose you a copy of my letters to lord Mulgrave, relative to the late seizures of our vessels by his majesty's cruisers in the channel and north sea, and of his replies. I had yesterday an interview with him on the subject, in which he gave me a report from each of the king's law officers in the admiralty, respecting the late decisions, and promised me another interview on that and the other topicks depending between our governments, as soon as I should desire it after having perused the reports. By my note to him of this date, you will find that I consider these documents unsatisfactory on the great question, and have asked another interview. It appears, however, by them, that no recent order has been issued by the government; hence it is probable that the late decisions on the point of continuity of voyage, which have carried the restraints on that commerce to a greater extent than heretofore, may have furnished to the parties interested a motive for these seizures. It is equally probable, that the decision of the court of appeals in the case of the Essex, as several of its members are also members of the cabinet, may have been dictated by policy, to promote the navigation of this country at the expense of that of the United States. In the late interview with lord Mulgrave much general conversation took place on the subject, in which he assured me, in the most explicit terms, that nothing was more remote from the views of his government, than



to take an unfriendly attitude towards the United States ; he assured me, that no new orders had been issued, and that his government was disposed to do every thing in its power to arrange this and the other points to our satisfaction, by which, however, I did not understand that the principle in this case would be abandoned ; though I think it probable that, in other respects, much accommodation may be obtained relative to that commerce.

Affairs here seem to be approaching a crisis. It is said that the combined fleets, having been previously joined by the Rochefort squadron, have entered Ferrol, and that the force now there is thirty-seven sail of the line. Sir Robert Calder has joined admiral Cornwallis before Brest. The French fleet there consists of about twenty-six sail of the line. This force, so nearly united, is a very imposing one. The menace of invasion is kept up and increased ; every thing seems to indicate that an attempt will soon be made.

I am, sir, with great respect, &c.

JAMES MONROE.

*Downing Street, July 31, 1805.*

MR. MONROE presents his compliments to lord Mulgrave, and requests the honour of an interview with his lordship on the subjects that were depending between their governments at the time of Mr. Monroe's departure last autumn for Spain, and postponed at the instance of lord Harrowby until his return. These subjects will be found in a communication to lord Harrowby, of the 5th of September last, which contains a project of a convention to define certain neutral rights, to discriminate between American and British seamen, and protect the former from impressment. and also to establish by a modification of the convention entered into by lord Hawkesbury and Mr. King on the 12th of May, 1803, in the manner proposed and for the reasons stated in that communication, the boundary between the territories of his majesty and those of the United States on their north western frontiers. The two first mentioned of these topics have been a cause of much irritation and complaint on the part of the United States, which cannot otherwise than be increased by the princi-

ples which appear to have been adopted in some late decisions of the court of admiralty, relative to the commerce of the United States with the colonies of the enemies of Great Britain, and with the parent country, in the productions of such colonies. Mr. Monroe is persuaded that it is of great importance to both countries to arrange these points between them, and he flatters himself that it will be easy to do it on terms that will be equally safe and satisfactory to both parties.

## No. 2.

*From Lord Mulgrave. Downing Street, Aug. 5, 1805.*

LORD MULGRAVE presents his compliments to Mr. Monroe, and will have the honour of appointing a day for receiving him at the foreign office early in the next week. Lord Mulgrave wishes to inform himself of the state of the business opened to lord Harrowby, previous to his conference with Mr. Monroe.

## No. 3.

*To Lord Mulgrave. Dover Street, Aug. 8, 1805.*

MY LORD,—The late seizures of the vessels of the United States by his majesty's cruisers is so important an event, as to make it my duty to invite your lordship's attention to it. My government will naturally expect of me immediately the best information which I can obtain, of the nature and character of the measure, the extent to which it has been, and will be carried, and of the policy which dictates it. Being in a state of profound peace with his Britannick majesty and his dominions, conscious of having cherished that relation, and performed all its duties with the most perfect good faith, it will be surprised at a measure which will be understood to breathe a contrary spirit. From the view I have of the subject, I can only state, that many of our vessels have been brought in, under orders that were equally unknown to the parties that were affected by them, and to the representative of the United States, accredited with his majesty; that the principles,

on which some of them have been condemned, are denied by our government, and, as it is contended, on the soundest principles of the law of nations. I wish to possess, and to give correct information on the whole subject, and shall be happy that your lordship will enable me to do it.

It would have been agreeable to me to have postponed this inquiry until I should be honoured with the interview, which I requested of your lordship on the 31st ult. and which you have been so good as to promise me next week; but the importance of the subject, the impression which the measure has made on the parties interested, and doubtless will make in the United States, together with the propriety of giving my government such information as is official and authentick only, will, I flatter myself, satisfy your lordship, that I could not justify a longer delay.

I have the honour to be, &c.

JAMES MONROE.

No. 4.

*From Lord Mulgrave. Downing Street, Aug. 9, 1805.*

SIR,—I have just received the honour of your letter, of yesterday's date, stating the existence of some measures relative to the vessels of the United States, of which you have cause to complain. As you have not mentioned either the nature or the period of the transaction to which you allude, I am not enabled to give you a satisfactory answer; and I am not aware of any recent occurrence of so pressing a nature, as to require an explanation previous to the day on which I shall have the honour of seeing you in the course of the next week. If you will inform me more particularly of the ground of complaint, I shall, without delay, give the subject every attention in my power.

I have the honour to be, &c.

MULGRAVE.

## No. 5.

*To Lord Mulgrave. Dover Street, Aug. 12, 1805.*

MY LORD,—I have been honoured with your lordship's letter of the 9th instant, and shall willingly comply with your request in stating more fully the nature of the complaint, to which I alluded in mine of the 8th, and the period within which it has occurred. By a report of the consul of the United States for this port and district, of which I have the honour to enclose you a copy, it appears that in the course of a few weeks past about twenty American vessels have been seized in the channel and North sea by his majesty's ships of war and privateers, and brought into his ports for trial: the officers who seized them stated (according to the report of some of the masters) that they acted by order, as is to be presumed, of the government. As this proceeding was sudden, without notice, and without example in the conduct of the present war, as it has embraced a considerable number of vessels, and may be extended to many others, it was impossible for me to reconcile it with the friendly relations subsisting between the two powers. It is therefore my duty to request of your lordship such information respecting it, as I may transmit without delay to my government. Of a measure so highly important to the rights and interests of the United States no erroneous opinion should be formed, no incorrect idea entertained. It is proper here to observe, that the decisions of the courts, to which I alluded in mine of the 8th, the principles of which are considered by my government as subversive of the established law of nations, were given in the case of the "Essex," a few weeks since, and in those of the "Enoch" and "Mars," on the 23d and 24th ultimo. These decisions impose restraints on the commerce of neutral nations with the enemies of Great Britain, which, it is contended, derive no sanction from that authority. The principle, on which they are founded, asserts a right in Great Britain to restrain neutral nations from any commerce with the colonies of an enemy, in time of war, which they do not enjoy in time of peace; or, in other words denies, in respect to neutrals, the sovereignty of an enemy in time of war, over its own colonies, which remain in other respects subject to its autho-

rity and governed by its laws. It cannot well be conceived how there should be a difference on principle, in the rights of neutral powers, to a commerce between any two ports of an enemy not regularly blockaded, and any other two of its ports; how it should be lawful to carry on such commerce from one port to another of the parent country, and not from its colonies to the parent country. As the board of commissioners under the seventh article of the treaty of 1794, in revising the decisions of the British courts, founded on the instructions of November 6, 1793, condemned this doctrine, there was just cause to expect that it would never have been revived. It is understood that no other power admits it, and that it is also repugnant to the practice of Great Britain herself, with respect to her own colonies in time of war. It is easy to show that the doctrine is of modern date, even in England; that the decisions of her courts have not been uniform, and that those in the cases referred to have carried the pretension to an extent, which, by assuming cognizance, if not jurisdiction, in the interior concerns of the United States, is utterly incompatible with the rights of sovereignty, and the self respect which, as an independent nation, they can never lose sight of. I forbear, however, to enter further into this subject at present, in the expectation that I shall be honoured with such information from your lordship of the views of his majesty's government, as will be satisfactory to that which I have the honour to represent.

I have the honour to be, my lord,

JAMES MONROE.

No. 6.

*From Lord Mulgrave. Downing Street, August 12, 1805.*

LORD MULGRAVE presents his compliments to Mr. Monroe, and will be very happy to see him at his office on Thursday next, at two o'clock.

## No. 7.

*To Lord Mulgrave. Dover Street, Aug. 12, 1805.*

MR. MONROE presents his compliments to lord Mulgrave, and will do himself the honour to wait on him at his office on Thursday next, at two o'clock. He has the pleasure to send his lordship a reply to his letter of the 9th instant.

## No. 8.

*To Lord Mulgrave. Dover Street, Aug. 16, 1805.*

MR. MONROE presents his compliments to lord Mulgrave, and has the honour to return his lordship the papers which he was so good as to deliver him yesterday. Mr. Monroe is sorry to find that these documents furnish no satisfactory explanation on the real ground of complaint, on the part of the United States, as stated in his letter of the 12th: he will therefore be happy to see lord Mulgrave again on the subject, as soon as it may be convenient for his lordship to receive him.

*London, Aug. 20, 1805.*

SIR,—I had an interview with lord Mulgrave yesterday, on the late seizure of our vessels, which I am sorry to observe presented the prospect of a less favourable result than I had anticipated from the preceding one. He asserted the principle in the fullest extent, that a neutral power had no right to a commerce with the colonies of an enemy in time of war, which it had not in time of peace; and that every extension of it in the former state, beyond the limit of the latter, was due to the concession of Great Britain, not to the right of the neutral power. I denied the principle in equal extent, and insisted that Great Britain had no more right in war to interfere with or control the commerce of a neutral power with the colonies of an enemy, than she had in peace. As we could not agree on the principle, I asked on what footing his government was willing to place the trade? His reply showed, that it was



not disposed to relax in the slightest degree from the doctrine of the late decrees of the courts of admiralty and appeals ; which go to cut up completely by the roots the whole commerce of the United States in the produce of the colonies of its enemies, other than for the home consumption of their citizens. I urged in as strong terms as I could the objections which occurred to me to this pretension, but he showed no disposition to accommodate, so that we parted as remote from an accord as possibly could be. I asked lord Mulgrave whether I should consider the sentiments which he expressed as those of his government ? He said he had in the commencement expressed a desire that our conversations should be considered rather as informal, than official, as entered into more in the hope of producing an accord, than in the expectation that we should ultimately disagree ; that however he should report the result to the cabinet, and give me such an answer to my letters, for my government, of the views of his own, as it might wish to be taken of its conduct and policy in this business. I do not state the arguments that were used in the conference on each side, because those of lord Mulgrave will probably be furnished by himself, and you will readily conceive those to which I resorted. What the ultimate decision of his government may be, I cannot pretend to say. It is possible that he held the tone mentioned above, in the late conference, to see whether I could be prevailed on to accommodate with his views. It is difficult to believe that it will yield no accommodation on its part to our just claims in the present state of public affairs.

In my former interview with lord Mulgrave, he informed me, that I should find by the reports which he gave me, that most of the vessels had been dismissed ; and it appeared by the reports, that some of them had been, one or two on the opinion of doctor Lawrence, counsel for the captured, which had been taken in the absence of the king's proctor. I returned to him the reports to obtain copies for you. General Lyman has informed me, that others have been since dismissed, and, as he thought, some that had been seized on the new doctrine of continuity of voyage, though nothing to countenance such an expectation escaped from lord Mulgrave in the last conference.

It is decided, on consideration of all circumstances, that Mr. Bowdoin will repair to Paris, where he will probably remain till he receives the orders of the President, and that Mr. Erving will proceed immediately to Madrid to relieve Mr. Pinkney. Mr. Bowdoin, by being on that ground, will be more in the way of obeying such orders as he may receive than here; and both he and Mr. Erving respectively may perhaps take their ground with greater propriety in this stage, while it is known that our government has not acted, than afterwards.

I am, sir, with great respect and esteem, your very obedient servant,

JAMES MONROE.

No. 34.

*London, Sept. 25, 1805.*

SIR,—I have already forwarded you copies of two letters to lord Mulgrave, respecting the late seizure of American vessels, and you will receive with this a copy of a third one. His lordship has endeavoured to manage this business without writing, from a desire, which has been very apparent, to get rid of it, without any compromise. With that view he gave me, in an early interview, a report of the king's advocate general and proctor on my first letter, which had been referred to them, which gave some explanation on the subject, which he might suppose would be satisfactory. I soon, however, assured him that it was not, and pressed an answer to my letters, which was promised, but has not yet been given. A few days before Mr. Erving left this for the continent, I requested him to ask Mr. Hammond when I should be favoured with one. I send you a note of the conversation between them. Having waited some time longer, I thought it my duty to press the point again, and in so doing to expose, as fully as I could, the fallacy and injustice of the principle, on which Great Britain asserts the right to interdict our commerce with the colonies of her enemies and elsewhere in the production of those colonies. I do not know that I shall be able to obtain an answer to this or the other letters. The presumption is against it, because she does not wish to tie up her hands from doing what her interest may

dictate, in case the new combination with Russia and Austria should be successful against France. In the mean time she seeks to tranquillize us by dismissing our vessels in every case that she possibly can. It is evident to those who attend the trials, that the tone of the judge has become more moderate; that he acquits whenever he can acquit our vessels, and, keeping within the precedent of the Essex, seizes every fact, that the papers or other evidence furnish in the cases which occur, to bring them within that limit. If any thing can be done in our affairs, it may be in a week or ten days; and if not done in that time, it most probably will not be during the present winter. I shall do every thing in my power to bring them to a satisfactory conclusion.

I am, sir, with with great respect and esteem, &c.

JAMES MONROE.

P. S. I enclose you a copy of my letter to general Armstrong, by Mr. Erving.

[Here is inserted the remonstrance of Mr. Monroe, which we have already printed, as it accompanied a former message of the President, in vol. v. p. 297.]

No. 37.

*London, Nov. 26, 1805.*

SIR,—I hasten to transmit to you a copy of a letter, which I received yesterday from lord Mulgrave, in reply to mine of August 12th. and September 23d. From the length of time which had elapsed, and other circumstances, I had almost concluded that his government had resolved not to enter on the subject, but to leave me to get its determination as I could, from the decision of the admiralty. I find, however, with much satisfaction, that it is intended to take it up, whence there is some cause to presume that the business may yet be placed on a satisfactory footing. I shall not fail to cherish a disposition to such an adjustment by all the means in my power, or to inform you, without delay, of whatever may occur in it.

I am, sir, &c.

JAMES MONROE.

*Downing Street, Nov. 25, 1805.*

SIR,—Upon a deliberate consideration of the nature and importance of the question which you have opened in the two official notes which I had the honour to receive from you, and adverting to the grounds of reasoning, upon which you have principally rested your representations, I deemed it indispensably necessary to a due discussion of the subject, that a reference should be made by me to those who are best acquainted with all the circumstances respecting the decisions which have taken place, and the rules which have been established in our courts of admiralty and appeal, as well as with the principles and practice, according to which the law is therein administered. I have not yet received any report, in consequence of the reference which I have made, but I hope at no distant period to be enabled to give a full, and I trust, conclusive answer upon this most important point. I trust that you will not consider the interval of time, which is necessary for a due investigation of so considerable a question, as a delay either inexpedient or misplaced.

I have the honour to be, &c.

MULGRAVE.

James Monroe, Esq. &c. &c. &c.

*Extract of a Letter from Mr. Monroe to Mr. Madison.  
London, February 12, 1806.*

“As soon as Mr. Fox took possession of his office, he requested an interview with the foreign ministers, which took place yesterday. We were introduced separately. Mine lasted about half an hour. As soon as the ceremony of the interview had passed, I observed, that I presumed he had been too short a term in office to have made himself acquainted with what occurred between his predecessors and myself, more especially the last one. He said, he had not had time to read the papers, though he presumed he had a general idea on some of the topicks. In respect to the immediate question of seizure, he asked me whether I had made to them, or they to me, any proposition. I gave a short sketch of the part which our respective governments had acted, since the commencement of the pre-

sent war, towards each other. I told him, my government had been ready to form a commercial treaty with his, on the expiration of the late one ; that it had agreed to postpone it to accommodate his, and with a desire that the arrangements which might be formed, being entered into at a time when each had sufficient leisure to attend to the object, and founded on a liberal view of their respective interests, might place their relations on such a footing as to secure their friendship from interruption, at least at an early day ; that in the same spirit it had sought to put out of the way certain causes of a transient nature which might possibly create misunderstanding in the course of the war, such as the impressment of our seamen, blockades by proclamation, &c. according to a project which had been presented to lord Hawkesbury, and to both his successors ; that those gentlemen never gave any definitive answer to that project, and urged, as a cause of their delay, the other and pressing engagements of their government, with which I was well acquainted ; as also, that its conduct towards the United States, in the course of the present war, was as consonant to their principles and wishes in the most important points, as they could desire it to be : that I left the business on that ground, when I went to Spain, in the expectation that no change in the existing relations between the two countries would be made in my absence.

I assured him, that I was astonished to find, on my return, that on the contrary those relations had experienced the most essential change ; that an attack had been made on our commerce, on a principle which had heretofore been so completely settled between our governments, and abandoned by his, as to have been a case for which no provision was even proposed in the project referred to. I explained to him the ground of this remark, and informed him that I had written several notes to lord Mulgrave on the subject, to which I had not been able to obtain an answer on the main question, though he seemed desirous, by keeping it open, in his short replies, that I should not consider it as decided against the United States. I could not avoid intimating to him, that the friendly disposition which our government had shown, had been most ungenerously requited by his : that it seemed as if it had pursued a just and friendly conduct towards the United States, till the moment that the new coalition was formed, and gave the

present blow, when the prospect was favourable to success, and kept the business in suspense to see the result of affairs on the continent and in the United States. He heard me with much attention and apparent interest, intimated that he had been accused of being too friendly to America, and when I spoke of the treaty with Russia, he observed, that he had thought that the arrangement made by it was a good one, though I did not understand him as pledging himself by the remark to its conditions. I requested that he would make himself master, as soon as in his power, of the correspondence between lord Mulgrave and myself, and give me an interview, which he promised. I am happy to add, on a view of all circumstances, that I think the prospect of arranging our affairs with this government, especially that one which respects the trade with the colonies of its enemies, on satisfactory terms, a very favourable one. It is certain that nothing more favourable to such a result was, or could reasonably have been expected from the first interview with the present minister."

I am, sir, with great respect, &c.

JAMES MONROE.

No. 42.

*London, February 28, 1806.*

SIR,—Presuming that it may be satisfactory to the President, and useful, to be made acquainted, without delay, with every incident that occurs, I have the pleasure to send you a copy of a late note to Mr. Fox, on our concerns in his hands. In our first interview he promised to examine the papers, and give me another at an early day; but as I did not hear from him within the time I had expected, I called again, when he informed me that he had not yet been able to take up the American papers, but should soon do it. He asked, in what shape the most interesting topick presented itself, alluding, as I understood, to the late seizures. I replied, by a complaint on the part of the United States, of a violation by Great Britain of the relations subsisting between the countries; and I illustrated the remark by a sketch of the conduct of his government in the most material circumstances. To the merits of the case he said but little. What he did say, however, was



conciliating ; and he repeated what he had said in the former interview of his earnest desire to see the affairs of the two countries placed on the most friendly footing. He assured me that I should hear from him as soon as he had read the papers, which he would do without delay. I intimated that, by giving him a summary of the whole, I might perhaps facilitate his research, to which he assented. It was on that ground that I addressed him the enclosed note.

I have since received your letter of January 13, in which you promise to send me an examination of the British principle lately published, the memorials of the merchants of our principal towns, and other documents illustrative of the subject. I shall be happy to receive these, and shall certainly endeavour to draw from them all the aid which they can furnish. The letter referred to in the commencement of that of the thirteenth has not come to hand, nor has any of a later date than December 4. I shall be attentive to the injunction contained in the last paragraph of that of the 13th.

As the subject is now fairly before the new ministry, who seem to be well disposed in the business, permit me to submit it to consideration, whether it may not be better that no measure should be definitively adopted, or, if already adopted, be executed, till a fair experiment is made of what may be expected of it. By suspending what might have been contemplated in another view, and even necessary, it may tend to conciliate those now in power, and be productive of good.

I have the honour to be, &c.

JAMES MONROE.

*Prince's Street, Feb. 25, 1806.*

SIR,—I have the honour to transmit you a note of the papers which are material in my correspondence with your predecessors on certain interesting topics, which have been for some time depending between our governments, and are still unsettled. These are, 1st, the rights of neutral powers in certain specified cases ; 2d, the impressment of American, and desertion of British seamen ; and 3d, the boundary between the United States and the

British possessions in America. The papers referred to will, I presume, sufficiently illustrate these topicks. I shall, however, be permitted to accompany them with some remarks, to explain the course which the business has taken, and the state in which you receive it.

Aware of the abuses which had been practised in respect to neutral rights and seamen in the last war, and of their injurious effect on the interest of both countries, my government was very desirous to prevent a repetition of them in the present one. With that view, and by its order I had the honour to propose to lord Hawkesbury, soon after the commencement of the war, an arrangement, by convention, of these interests, on such just and fair conditions, as it was presumed would have been readily acceded to. You will see by the project which I then presented to his lordship, at his request, that the object was strictly to prevent abuses, and the ill consequences incident to them, not to acquire any advantage to the United States by the establishment of controverted principles in the one, or unreasonable pretensions in the other case. In respect to neutral rights, it was proposed to adopt between the governments, in such cases as were most liable to abuse, certain principles or rules of conduct which Great Britain had already assented to in her treaty with Russia, in 1801. As those powers had entered into that treaty for the express purpose of defining the law of nations in the cases to which it applied, and Great Britain had adopted its conditions afterwards in separate conventions with Denmark and Sweden, with the same view it was concluded that her government would not hesitate to admit its doctrine or to observe its injunctions with other powers. The same motive was felt and respected in the proposition which I had the honour to make in respect to seamen. The sensibility of the government, and indeed of the whole nation, had been subjected to great and almost continual excitement by the abuses which had been committed in that line, on the high seas, in the islands, and sometimes in the ports of the United States. The sons of respectable citizens had been snatched from them, many of whom were doomed never to return, to be slain in wars to which their country was not a party, or otherwise perish in a foreign service. No rule had been established by the governments to discriminate between American and British seamen, a thing

not easily done by the most impartial ; and the commanders of many of his majesty's ships of war and privateers, especially the latter, acknowledge none but their own judgments in making the discrimination. The highest American documents were often either not looked at, or utterly disregarded. It was evidently improper that an interest of a nature so delicate and important, one which was so intimately connected with the sovereignty and independence of the nation, should be left longer in such a state of oppression. My government felt that it would be wanting to what it owed to its character and its duty, if it did not endeavour to put an end to a practice so injurious and at the same time so degrading. It was, therefore, one of the objects of the projects referred to, to provide a remedy for that evil. But it was understood that Great Britain complained likewise of an injury in respect to her seamen, though of a different kind : for that, also, it was proposed to provide an adequate remedy. In protecting American citizens from impressment, my government was far from desiring to extend its protection to any who had not a just claim to it. It was ready to meet the injury complained of by Great Britain, and to suppress it by the most effectual means in its power. These propositions were neither accepted nor rejected by lord Hawkesbury, though I think myself perfectly correct in stating that nothing occurred in our conferences to justify an inference that he thought them unreasonable. They were postponed from time to time at his instance, and finally transferred to lord Harrowby, his successor. I revived the subject immediately with lord Harrowby, to whom I also submitted, at the same time, a proposition relative to boundaries. It happened that lord Hawkesbury and Mr. King had made a convention on this latter subject, within a few days of the time when one was also concluded between the United States and France, whereby the province of Louisiana was ceded to those states. As it was not known either to lord Hawkesbury or Mr. King, when they formed their treaty, that one had been concluded with France, it was impossible that the conditions of the French treaty should be in any degree affected by that with Great Britain. It was, however, apprehended, that if the British treaty should be ratified by the President and Senate, after the conditions of the other were known, without providing against it, that

it might lay the foundation for such a pretension. It was, therefore, proposed to modify the convention in such a manner as to preclude a claim which would be equally unjust and unauthorized. As this subject is fully explained in my note to lord Harrowby of the 5th of September, 1804, it is unnecessary to enter further into it at present. The conduct of lord Harrowby in this business was essentially the same with that of his predecessor. It was postponed from time to time for the consideration of the cabinet, whose decision I was taught to expect, but never received. I had been ordered by my government, before lord Harrowby came into office, to repair to Spain on a special mission, as soon as the business with his lordship should be concluded. Of that fact, after waiting some time, I gave his lordship information, in the hope of promoting despatch. Still, however, the business was delayed; the cabinet, as I was informed, having come to no decision on any point, till finally it was agreed between us to postpone the whole until my return from Spain, when it should be resumed and concluded. I left Great Britain on that mission in October, 1804, and returned in July, 1805.

At the epoch referred to, the relations between the two countries were of a character the most friendly. Not an American vessel had been condemned on any principle which was relied on by my government, and only one that I knew of on any principle whatever. Their commerce with each other was, as it always will be when left to its natural course, most flourishing, and that which the United States claimed as a neutral power with other nations, on a footing which was perfectly satisfactory to their government. At my return, however, the scene was completely changed. A system of seizure and condemnation of American vessels had been commenced on a principle, respecting which it was presumed that no new discussion could ever arise; one which was considered as having been so completely settled between the governments, that, in the project above referred to, it was not contemplated to make a provision for it; a principle which had been renounced by Great Britain in her treaty with the United States in 1794, which had been condemned by the commissioners who sat under that treaty, which had been renounced by the court of admiralty in a subsequent de-

cision, by lord Hawkesbury in a formal communication with my predecessor in 1801, by the treaty with Russia in the same year, and, what is perhaps still more conclusive, by the government, in the sanction which had been given to that commerce for the two preceding years of the war. I could not otherwise than be much surprised at a proceeding, which I considered objectionable in so many views, and hastened to remonstrate against it to lord Mulgrave, in several notes whose dates are annexed. To these his lordship never honoured me with a conclusive answer, with one which acknowledged the measure as an act of the government, or disclaimed it on its part. The proceeding has been highly injurious to the United States. About one hundred and twenty of their vessels have been seized, several of which were condemned, all taken from their course, detained and otherwise subjected to heavy losses and damages. To the immediate sufferers it has been very disastrous; but the ill effect has not been confined to them only. It has been severely felt in the general commerce of the country.

I have thought it my duty to give you above a sketch of the several topicks depending between our governments, which are submitted to your consideration. They are all of a nature very interesting, as I am persuaded you will find by a perusal of the documents referred to. But the late seizure and condemnation of American vessels are acts which have proved so highly injurious to the United States, and have so essentially changed the relations between the countries, that they will, I flatter myself, obtain from you a more immediate and particular attention. I beg you to be assured that I shall be happy to have it in my power to transmit to my government, without delay, such communications on your part, which may serve not only to heal the wound which has been thus unexpectedly received, but to promote in other respects, by suitable arrangements, the reciprocal and permanent interests of both nations, and the best understanding between their governments.

I beg you to accept the assurance of the high consideration with I have the honour to be, sir, &c.

JAMES MONROE.

The Rt. Hon. Charles J. Fox, &c. &c. &c.



No. 43.

*London, March 31, 1806.*

SIR,—Your letter of the 13th January is the last that I have received. The pamphlet enclosed with it has been republished here, and I have this day transmitted a copy of it to Mr. Fox, with whom I had an interview on the 28th. I had expected from what passed between us on the 11th, that before this, much progress would have been made in the adjustment of our affair: I am, however, sorry to add, that this has not been the case. In the late interview, I complained of the delay which had taken place, more especially as the court continued to condemn our vessels on the principle it had heretofore done. Mr. Fox said, that till the business was arranged, he presumed the court would be consistent; but gave reason to expect that the condemnations would be suspended. He assured me explicitly, that the late decision was not to be considered as an evidence of the disposition of the present ministry. I endeavoured to fix with him the conditions of our adjustment of that question, but found that he was not prepared to conclude any thing. The tenour of his conversation, however, was perfectly consistent with what he had said before on it, as heretofore communicated to you. The interview terminated in his assuring me that he should devote the Easter holydays to a full examination of the whole subject, after which he would be prepared to meet me on it, and that he was persuaded we might conclude it in a month or six weeks from that time; that he would certainly give it all the despatch in his power. He intimated, that if indeed a peace should take place, of which there was at present but little prospect, he was nevertheless desirous of settling this business amicably with the United States, with a view to preserve future harmony. I told him that we expected payment for the spoliations. He said that that was a very serious and difficult point; but gave no opinion on it. Finding that nothing could be done conclusively, I had only to assure him that I should be ready to meet him whenever he might be prepared, which I hoped would be immediately after the holydays. From what I can discern. I think that



there is much cause to believe that Mr. Fox has the best disposition to settle our differences on just principles ; but it must be recollected, that some other of the members of the cabinet have not always thought with him on such topics. On the most deliberate reflection, I am convinced that too much reliance ought not to be placed on these favourable appearances ; and that there is cause to fear, that if the Congress should separate without adopting a system of coercive policy, calculated to meet the most unfavourable result, their forbearance may contribute to the disappointment of our reasonable expectations. By this, however, I do not wish to imply that measures of the kind alluded to should be carried into prompt execution. I mean only that the attitude should be taken, but its operation be suspended by suitable powers to the President, till he shall be duly notified that the negotiation has failed. Such a suspension will be deemed a sufficient mark of respect to those in the ministry who are disposed to a fair accommodation ; and the attitude will, in my opinion, tend to aid their councils in producing that effect.

I am, sir, &c.

JAMES MONROE.

*Extract of a Letter from Mr. Monroe to Mr. Madison.  
London, April 3, 1806.*

“ As it appeared by what occurred in my interview with Mr. Fox, on the 28th ultimo, that some weeks at least would elapse before I could hope to bring our business to any conclusion, I thought it proper to make a formal application to him on the 31st, for an order to suspend the seizure and condemnation of our vessels on the principle of the late decrees. I had not requested this in explicit terms before, because I hoped from what passed in our first interview, that the whole affair would have been concluded much sooner. I was fearful too that if the demand should be granted, it would become a reason why nothing more should be done. This latter reason, it is true, still remains in some degree in force, if indeed it had any weight at first. It was, however, outweighed by the consideration that the seizures were continued, and that I ought not, on a mere speculative point of expedience, as

to the effect which such an application might have on the general question, to delay any longer my utmost exertion to put an end to the practice.

There were also some other considerations which prevented my making the application sooner, which had ceased, if they did not furnish motives for making it in the present stage. The new ministry had a just claim to sufficient time to become acquainted with the merits of the question, and even to sound the parliament on it, before it could be expected to take any step in the business. Had I made the demand at an earlier period, I thought I should incur the imputation of a want of candour, without a reasonable prospect of hastening a decision, unless indeed by urging it unseasonably, I might promote an improper one. To Mr. Fox, especially, much attention was due in the mode of proceeding, on account of his character and principles in reference to our country, which are known to be just and liberal. It seemed probable that, by respecting that sentiment towards him in the measures taken, his feelings would be gratified and his mind conciliated, which could not otherwise than produce a good effect. His exertions on topicks in which the United States were interested form an important trait in his political life; and it was evident in our first and subsequent interviews, that he looked back on them with interest and satisfaction. This, therefore, formed a special motive for giving time, and acting with delicacy in the business. At this period, however, the application seemed to be free from all these objections, while it had become obviously my duty to make it by the considerations stated in my note.

How the cabinet is disposed in this question it is not in my power to state. Some of its members are known to have differed with Mr. Fox in respect to the policy of Great Britain towards the United States, on former occasions and in similar cases. It is possible that the spirit of conciliation, on which the ministry is formed, may be felt in the present one. Every view, however, which I have been able to take of the subject, confirms me in the justice of the remarks which were communicated to you in my last of the 31st ultimo."

I am, &c.

JAMES MONROE.

*March 31, 1806.*

MR. MONROE presents his compliments to Mr. Fox, and has the honour to send him a copy of an American essay, containing an examination of the principle on which the admiralty has lately condemned the vessels of the United States. As this work is written with great ability and candour, Mr. Monroe flatters himself that Mr. Fox will take the trouble to give it an attentive perusal.

Mr. Monroe has been much gratified by the assurances which Mr. Fox has given him in their several interviews, of his disposition to adjust the differences between their governments on the most just and liberal principles. He has high confidence in those assurances, and in the prospect they afford of an early accomplishment of their object. In consideration, however, of the great length of time which has elapsed since the commencement of the seizures, and that which will be required to conclude the business, he deems it his duty to submit to Mr. Fox, whether it will not be proper that his majesty's government should suspend the seizure and condemnation of American vessels on the principle in question. Mr. Monroe presumes, that such a suspension in any case, where one of the parties to an amicable negotiation was suffering very extensive injuries under the operation of a principle which they were desirous to adjust, would be proper. In the present one, however, it seems to him to be made peculiarly so by a late decision of the lords commissioners of appeal, in the case of the *William, Trefrey*, which confirms the principles of the former decisions, which have been, as Mr. Monroe presumes, so justly complained of by his government. He apprehends that this decision, unless followed by the suspension proposed, will be considered by the United States and his majesty's cruisers, as a sanction by the present government to the policy which has been heretofore pursued. In case his majesty's government thinks proper to adopt the measure which is requested, Mr. Monroe hopes that Mr. Fox will be so good as to give him early notice of it, that he may transmit it to his government without delay.

*Extract of a Letter from Mr. Monroe to Mr. Madison.  
London, April 18, 1806.*

“ I RECEIVED yesterday a note from Mr. Fox, appointing to-morrow (Saturday 19,) for an interview, with which I shall of course comply. I met him afterwards, and had a conversation with him in the queen’s drawing room, which, being of an interesting nature, I hasten to communicate to you. He took me aside, and observed that we must now soon settle our business. I replied, that I hoped he was ready to do it. He intimated that he was, essentially ; that we would begin on Saturday, and pursue it without delay till it was concluded. Some remarks of his having led the conversation to the merits of the principal topick, I told him that he must leave us in the enjoyment of the trade in question, and pay us for the property taken. To the first proposition he immediately assented. To the second he said there would be objections. He added, that he had taken steps to prohibit the farther condemnation of our ships and cargoes, as I had desired, of which he intended to have informed me by note, but had been prevented by other business ; he had no objection, however, still to do it. I cannot be positive whether he said that the prohibition extended also to the seizure of our vessels, though I rather think it did. When I see him to-morrow, I shall easily ascertain this. He observed that we must make some arrangements to accommodate them in return : that the practice of buying or pretending to buy enemies’ vessels, as was done in the north, ought to be suppressed, and he hoped that I would join him in it. I said that we would do all we could to prevent fraudulent practices ; that such purchases were rarely made by our citizens, as we were rather sellers than purchasers of ships. He considered it in that light, and, I found, wished some precedent from us, which might avail him in the north, and make more acceptable at home the accommodation given us in other respects. I left this topick, however, open ; having said nothing to compromit myself on it. As the whole of this conversation, though apart, was nevertheless in a publick room full of company, it was impossible to make it more precise. I could not, therefore, attempt to ascertain to what extent he was willing to leave

the commerce with enemies colonies free. I shall doubtless collect his idea on that point to-morrow, since it seems best to hear his proposition before I say any thing on it. and I shall not fail, in any case, to attend to your instruction of January 13."

I am, sir, &c.

JAMES MONROE.

*Extract of a Letter from Mr. Monroe to Mr. Madison.  
London, April 20, 1806.*

"I HAVE the pleasure to inform you, that I had an interview with Mr. Fox yesterday, in which we conferred on all the interesting topics depending between our governments. The result was as satisfactory, in respect to his own views, as his more early communications had promised, and gave a prospect more favourable of the disposition of the cabinet generally than I had anticipated. The substance of what passed in our conference of the 17th was fully confirmed in this, and his sentiments on some points, on which I had not then clearly understood them, were made more explicit. The prohibition mentioned in my letter of the 18th is to be extended to the seizure as well as the condemnation of our vessels, of which he is to give me official notice in a day or two. On the principle there seems to be no question between us, but in respect to the direct trade between the colony and the parent country. To the justice of our claim of indemnity he said little, but I see that it is a point which the ministry will find it difficult to concede, from a variety of considerations. I am, however, not without the hope that it may be placed on a satisfactory footing. He expressed a desire to take up the subject of commerce generally, more especially in respect to the West Indies, the intercourse between which and the United States he thought it important to both countries to arrange at this time. I showed a willingness to meet him on the general subject, or any part of it on which we could agree. The sentiments which he expressed on this, and every other subject, to which our conversation extended, were of a very liberal kind, and communicated with frankness and candour. He admitted that it ought not to be expected that the United States would

allow their productions and resources, which were necessary to the existence of the West India colonies, to be drawn from them otherwise than on fair principles of reciprocity. It was finally agreed that he should write me a second letter, which would be in reply to those I had written to lord Mulgrave, in which he would explain the views of his government on the subject of them. He promised to write this letter in a week or ten days, if not prevented by unexpected events. This letter will of course lay the foundation on the part of his government of the negotiation.

I am, sir, with great respect, &c.

JAMES MONROE.

No. 47.

*London, April 28, 1806.*

SIR,—Having waited a week after my interview with Mr. Fox on the 19th, without receiving either of the communications which he then promised me, I called on him on the 25th to know the cause, and to confer freely again on our affairs, if he should be so disposed. As he anticipated the object of the visit, we soon entered on it. After some introductory remarks on other topics, he began by asking what was the minimum of our demands respecting the seizures? Could we not agree in some modification of our respective pretensions, some compromise? For example, to adopt some plan which might answer our object without compromising his government. As I perceived that he alluded principally to our claim to an indemnity, I observed, that, if the principle was admitted to be with us, the indemnity followed of course. But, says he, cannot we agree to suspend our rights, and leave you in a satisfactory mode the enjoyment of the trade? In that case nothing would be said about the principle, and there would be no claim to an indemnity. I told him that I could not agree to such an adjustment; that the right was unquestionably with us; the injury had been severe and unprovoked, and that we could not abandon our claim in either case. He entered into such a view of the subject as showed a disposition to yield what accommodation he could, in a manner the least objectionable on his part. He did not



seem desirous of discussing the question of right, nor did he deny that an indemnity was fairly incident to it. He then asked how the fact stood relative to the continuity of the voyage? On what ground did the charges rest of the Congress having made regulations to evade the principle insisted on by the court of admiralty? I replied on none whatever; that the question of continuity had never occurred between our governments; that it was a creature of the court of admiralty, who had set it up as a doctrine, and supported it by such charges to justify the condemnation; that my government had never admitted the right in his to impose any restraint on the trade of neutrals with enemies' colonies, other than with the parent country; that his government had repeatedly admitted and established that claim by the most solemn acts, as had been proved by the documents in his possession: that he must be sensible, if my government was capable in any case of passing acts to evade a principle, it would not do it in the present one, where it could only serve to create doubts to the prejudice of the United States, and by giving a new sanction to the former pretensions of his government, revive a controversy which had been already amicably settled in their favour. I added, that I possessed an official document, which fully proved what I had advanced respecting our regulations, which, with his permission, I would send him. He expressed a desire to receive it. Well, says he, I perceive that your minimum and maximum are the same. I replied that I did not see how it could be otherwise; that we only sought what was strictly just, and ought not to be desired to relinquish any portion of that. He then proceeded to insist that our vessels, which should be engaged in that commerce, must enter our ports, their cargoes be landed and the duties paid on them. I said that such restraints were incompatible with our just rights. He urged also that we must unite in a plan to prevent the fraudulent sale and use of enemies' vessels. I was apprehensive that any stipulation on that head might lay the foundation of new disputes. He thought that we were interested as ship-builders in suppressing all such frauds: besides, says he, you must yield something to justify the concessions that are expected from us. I told him that I should be glad to see his project, or that he would answer my letters in such a manner as to lay the foundation of a

treaty. He assured me that he would do so, as soon as he could; but as he had failed to comply with his former promise, he was afraid to make another as to time; but gave me reason to expect one in a week or ten days. As I had cause to suspect, from his remarks on the whole subject, that an order to prohibit the seizure and condemnation of our vessels had not been issued, I asked him explicitly the question. He said that none had been issued; that in truth such a step would be to give up the point in negotiation. I inferred, however, that the measures which he informed me on the 17th and 19th he had taken for that purpose, were of a nature to produce the desired effect. These are, I suppose, confidential in the cabinet, with the court of admiralty, &c. The order itself has most probably been withheld for the present, that it might be connected with the general subject, on the principle above adverted to by Mr. Fox. I could not, however, push the inquiry on that point further at the time, from motives of delicacy to him, nor did there appear to be any strong reason for it. I cannot suppose that nothing is done in that respect, and am persuaded that the business is so far advanced, that if intended, as I presume, the order must soon be issued.

On the day after the interview above mentioned, I sent Mr. Fox a copy of Mr. Gallatin's letter to you explaining the mode of entering goods, and paying the duties on them in the United States, as I had promised. I had not done this to lord Mulgrave, because the state of the business with him would have given it the air of a concession on my part. I availed myself of the opportunity to state explicitly that I could not enter into any adjustment which did not provide a reasonable indemnity for injuries. It seemed to me obvious that that claim formed a principal difficulty in the cabinet, and I was persuaded that it might have a good effect to give him what would be considered the ultimatum on it. I have not heard from Mr. Fox since, though it is presumable that I soon shall, for I do not suspect him of the want of good faith in his communications with me. It is proper, however, to add, that, independent of the real importance of the subject, and the responsibility incident to any concessions which may be made in our favour by the present ministry, of the pretensions of the former, circumstances, which are likely to

inspire caution and create delay in the cabinet, the additional one of his being a member of the house of commons, for the management of the prosecution of lord Melville, cannot fail to increase it. I shall nevertheless do every thing in my power, consistent with propriety, to bring the business to as early a conclusion as possible, and to comprise in the adjustment, in the manner enjoined by my instructions, the important questions respecting our seamen and boundaries.

You will observe that Mr. Fox insisted in the late interview on restricting the trade with enemies' colonies in a greater degree than he had done in the preceding one. I am convinced that this was produced by the cabinet deliberations on the subject, for I am strong in the opinion, that if left to himself, he would meet in arrangements which would place the whole business, and indeed all our relations, on the most broad and liberal basis, in a firm belief that by so doing he would advance the best interests of his country. But he has to consult and accommodate with others, some of whom may perhaps not entertain in all respects the same sentiments, or be equally prepared to encounter, in a new scheme of policy, ancient and deep-rooted prejudices. When I get his answer I may remind him of his former concession in this respect, if it should appear that any advantage was likely to result from it. I shall not fail, however, to pay great attention to this particular object, and will certainly not agree to any restraint on the trade which can be avoided, or is likely to be disapproved by the President.

I am, sir, with great respect, &c.

JAMES MONROE.

*Prince's Street, April 26, 1806.*

MR. MONROE presents his compliments to Mr. Fox, and has the honour to enclose him a copy of the official document mentioned in their interview of yesterday, being a letter from the Secretary of the Treasury to the Secretary of State, explaining the manner in which duties are paid on goods imported into, and exported from the United States. Mr. Fox will find by this document, that the regulations respecting that subject are uniform and appli-

cable to all articles exported, and that they were not adopted to favour any particular commerce as has been erroneously supposed. Mr. Fox will be the more sensible of this fact, when he recollects that the government of the United States never admitted the right in Great Britain to inhibit the commerce in question, that, on the contrary, it had concluded on the highest possible evidence, as is proved by the papers in Mr. Fox's possession, that Great Britain had relinquished the pretension.

Mr. Monroe considers it his duty to observe to Mr. Fox, that as his government thinks itself entitled to the commerce referred to, and that the citizens of the United States have been injured by the attack which has been made on it, by his majesty's cruisers and privateers, under circumstances too, that were peculiarly calculated to inspire a confidence in their security, his instructions forbid his entering into any adjustment which does not look to the object of a reasonable compensation. He makes this communication with candour, in the hope, that Mr. Fox will take it into consideration in the answer which he has been so good as to promise him, at an early day.

Mr. Monroe flatters himself that his majesty's government will be animated by a sincere desire to meet the government of the United States in such an arrangement as will establish the relations of the two countries on a ground of permanent friendship, and that it will be of opinion, independent of the satisfaction to be derived from rendering justice to a friendly power which it has injured without provocation, that the recompense due to the sufferers is but a trifling consideration, when compared with so great a national object. Mr. Monroe hopes that Mr. Fox will see the propriety of placing this business in his answer on such ground as may promise a satisfactory adjustment of it, and for the reasons stated in his note of the 31st ult. that his majesty's government will not hesitate, in the present stage, to prohibit the further seizure and condemnation of American vessels. on the principle in question.

No. 48.

*London, May 17, 1806.*

SIR,—After my interview with Mr. Fox, on the 25th ult. I waited a fortnight without hearing from him. This new instance of delay surprised me, because he had shown a sensibility to the former one, and did not seem aware of the necessity of adding to it. Independent of the general object, the war with Prussia, and the blockades incident to it, the doctrine and practice respecting which it was necessary to arrange, furnished a new motive for a communication with him. On mature reflection, I thought it best to call informally, which I did on the 11th, with a view to enter on these topics in the familiar manner I had heretofore done. Mr. Fox was at the office, but did not receive me. He sent the expression of his regret at not being able to do it, being as he said just going to attend the cabinet, who were waiting for him. I called again on the 13th, and experienced the same result, though I had left word that I should then be there. I was informed by his desire, that a summons from the king, to attend him at the palace, prevented his receiving me on that day. I met him on the 15th at the drawing room, but had no opportunity of speaking to him. Sir Francis Vincent, the first under secretary of state, being acquainted with my desire, promised to arrange with him an interview, and to inform me of it. These are the only circumstances worthy notice that have occurred here since my last, till to-day. I mention them that you may be better enabled to judge correctly, in all respects, of the light in which the incident of this day ought to be viewed. Early this morning I received from Mr. Fox a note, a copy of which is enclosed, which you will perceive embraces explicitly a principal subject depending between our governments, though in rather a singular mode. A similar communication is, I presume, made to the other ministers, though of that I have no information. The note is couched in terms of restraint, and professes to extend the blockade further than was heretofore done; nevertheless it takes it from many ports already blockaded, indeed from all east of Ostend and west of the Seine, except in articles contra-



band of war and enemies' property, which are seizable without a blockade. And in like form of exception, considering every enemy as one power, it admits the trade of neutrals, within the same limit, to be free, in the productions of enemies' colonies, in every but the direct route between the colony and the parent country. I have, however, been too short a time in the possession of this paper to trace it in all its consequences in regard to this question. It cannot be doubted, that the note was drawn by the government in reference to the question, and if intended by the cabinet as a foundation on which Mr. Fox is authorized to form a treaty, and obtained by him for the purpose, it must be viewed in a very favourable light. It seems clearly to put an end to further seizures, on the principle which has been heretofore in contestation. I am engaged, by invitation, with Mr. Fox, on the 19th, when it is probable I may have an opportunity of conversing with him, and thereby enabled to form a satisfactory opinion on the subject. I hasten, however, to forward you the enclosed, with the above details, as it is important for you to have them. It is worthy of attention that at the drawing room, on the 15th, it was whispered about, that the bill for prohibiting the importation of British goods, &c. had passed the senate, of which it was said that intelligence had that morning been received. It evidently produced some sensation, which was doubtless the stronger from the idea then entertained, that the bill was to commence its operation at an early day. I observe, however, with pleasure, that on the whole the measure is considered by the government papers, on account of the distant period at which it does commence, rather as a pacifick than as a hostile one. I persuade myself that the present ministry will see, in the circumstance of delay, a strong proof of the disposition of the United States not only to preserve the relations of peace with Great Britain, but of their confidence, that the ministry is animated with the same desire. I cannot help remarking likewise the fact, that this paper was sent me immediately after the passage of the bill was known. It furnishes a strong presumption, that the government papers judge correctly of the sentiments of the government on that point. It may be inferred, that a knowledge of the passage of the bill hastened the communication to me. But my own opinion is, that the business, having had its



regular course, was advanced to such a stage that it would have been made, had the intelligence not been received. This opinion, however, is formed on circumstances only, and may be erroneous. I hope soon to be able to give you more certain and satisfactory information respecting it.

I am, sir, with great respect, &c.

JAMES MONROE.

P. S. I enclose to you a note from M. Lorentz, the minister resident of Hesse-Cassel, requesting certain information, which, if in your power to obtain, I beg you will be so good as to transmit to me.

*Downing Street, May 16, 1806.*

THE undersigned, his majesty's principal secretary of state for foreign affairs, has received his majesty's commands to acquaint Mr. Monroe, that the king, taking into consideration the new and extraordinary means resorted to by the enemy for the purpose of distressing the commerce of his subjects, has thought fit to direct, that the necessary measures should be taken for the blockade of the coast, rivers, and ports, from the river Elbe to the port of Brest, both inclusive; and the said coast, rivers, and ports are and must be considered as blockaded; but that his majesty is pleased to declare, that such blockade shall not extend to prevent neutral ships and vessels, laden with goods not being the property of his majesty's enemies, and not being contraband of war, from approaching the said coast, and entering into and sailing from the said rivers and ports, (save and except the coast, rivers and ports from Ostend to the river Seine, already in a state of strict and rigorous blockade, and which are to be considered as so continued) provided the said ships and vessels so approaching and entering (except as aforesaid) shall not have been laden at any port belonging to or in the possession of any of his majesty's enemies, and that the said ships and vessels so sailing from the said rivers and ports (except as aforesaid) shall not be destined to any port belonging to or in the possession of any of his majesty's enemies, nor have previously broken the blockade.

Mr. Monroe is therefore requested to apprise the American consuls and merchants residing in England, that the coast, rivers, and ports above mentioned, must be considered as being in a state of blockade, and that from this time all the measures, authorized by the law of nations and the respective treaties between his majesty and the different neutral powers, will be adopted and executed with respect to vessels attempting to violate the said blockade after this notice.

The undersigned requests Mr. Monroe to accept the assurances of his high consideration.

C. J. FOX.

*Extract of a Letter from Mr. Monroe to Mr. Madison.  
London, May 20, 1806.*

"FROM what I could collect, I have been strengthened in the opinion which I communicated to you in my last, that Mr. Fox's note of the 16th was drawn with a view to a principal question with the United States, I mean that of the trade with enemies' colonies. It embraces, it is true, other objects, particularly the commerce with Prussia, and the north generally, whose ports it opens to neutral powers, under whose flag British manufactures will find a market there. In this particular, especially, the measure promises to be highly satisfactory to the commercial interest, and it may have been the primary object of the government. You will observe, that I have not considered the note as a reply to mine, or as being any way connected with them. It was not communicated to me as such, and it was evidently improper for me to consider it in that light. In directing the publication of it, I have expressed no sentiment on the contents, but left them to the criticism of the publick.

With respect to the delay to which I am exposed, it is utterly out of my power to explain to you the cause. I have no reason to change the opinion, which I have heretofore expressed, of Mr. Fox's disposition on the subject, though I have had no late communication with him. His present reserve is unfavourable, but it may be otherwise accounted for, and on principles which are quite natural, and therefore presumable. He may have experienced more difficulties in the cabinet than he had expected.

Many of the members may be indisposed to an arrangement on such terms as can be accepted, and most of them willing to postpone any decision, until the result of the proceedings in Congress is known. Under these circumstances he may find it most eligible to avoid any further communication with me for the present.

It becomes, therefore, very difficult, if not altogether improper, for me to press the business at this time. It seems to be my duty to postpone such pressure to the same epoch, that is, till the final proceedings of Congress are known. I shall doubtless receive with them the instructions of the President on the whole subject, which, I beg to assure you, I shall use my utmost exertions to carry into effect."

I am, sir, &c.

JAMES MONROE.

*Extract of a Letter from Mr. Monroe to Mr. Madison.  
London, June 9, 1806.*

ON the 31st ultimo accounts were received here from the United States, that the President and Senate had adopted the measure of a special mission to this country, in which Mr. Pinkney and myself were associated. These accounts, which appeared to be well founded at first, have been confirmed since by letters to individuals, so that the fact seems to be unquestionable. I have not received official information of it, but expect it from you daily.

A suspension of further proceeding in the business in which I have been engaged, seemed to be the natural consequence of this measure, as soon as it was known. It has accordingly, already produced that effect, and will probably preserve it in the same state till Mr. Pinkney arrives. I hope, therefore, that I shall soon have the pleasure of seeing him.

My former letters, the last of which was of May 20, showed how this business stood at that time. I have since seen Mr. Fox twice, on the 4th and again on the 7th instant. The first interview was at his own house, on the anniversary of the king's birth, in a general rendezvous of the diplomatic corps. In that I touched on some interesting subjects, particularly the outrages lately com-

mitted at New York by the British cruisers, our non-importation act, and the affair of general Miranda. But, as we could not treat those subjects with advantage in a crowd, it was agreed to postpone the consideration of them to the 6th, when I promised to attend him at his office for the purpose of entering more fully into it. The interview was afterwards deferred by him to the 7th, when it took place.

Although the object of this latter meeting was special, yet it naturally brought into view the other topics in which we had been engaged, and with them that of the appointment above mentioned. Mr. Fox asked me, soon after we met, whether such an appointment was made. I told him that I had no official information of it, but I believed that it was. He said that Mr. Merry had informed him in his last letter that the measure was decided on, but had not been communicated to the senate. What effect, added he, will it produce on our business? It was evident that he thought it ought to suspend it. It was of course useless for me, had it even been proper, and I of a different opinion, to express it. My answer, therefore, corresponded with his expectation. I availed myself of the opportunity to assure Mr. Fox, that Mr. Pinkney was every way well qualified for the trust, and that I was persuaded that he would be well satisfied with the appointment.

The general subject being thus disposed, we proceeded to those which had been touched in our communication of the 4th. I told Mr. Fox that the outrage in the case of the unfortunate victim, John Pierce, had been committed, as appeared by the affidavits published, within the jurisdiction of the United States. I stated that the harbour of New York had been blocked up by those frigates, as if it were an enemy's port; that they did not appear to have taken their station there for hospitality or shelter, but for invasion. I told him of the outrages which had been committed at the same port in the autumn of 1804 by the same frigates, as of the conduct of his government in that respect, recalling in the first instance the officer who had given most offence, but finally promoting him to the command of a ship of the line. Mr. Fox said that he wanted information respecting the late unfortunate event: should it appear that the officers had acted improperly, due at-

tention should be paid to the subject. He added that he had already written to Mr. Merry in that sentiment, and would also express it in a letter to me. In speaking of the non-importation act, he expressed his regret that it had passed. He said that it had the air of a menace, and that it was not agreeable to do things by compulsion. I reminded him how long we had complained of injuries which his government had not attempted to justify ; injuries which were not imaginary or prospective, but real and severe, which affected equally the honour and the interest of the United States. I added that under such circumstances his government had no right to complain of the act referred to. I assured him, however, that I was of opinion, if the ministry had not changed, that a bill of a very different import would have been adopted ; that I had reason to believe that the tone of our government, and of the Congress, had been essentially moderated by the information which I had given of his assurances that our differences should be settled amicably, and on just principles ; that the act which had passed in consequence of that information was little more than a declaration to the citizens of the United States that the object would be duly attended to. I observed that he must be sensible, after the subject had been taken up by Congress, as it was before the change of the ministry was known, that it was impossible for that body to dismiss it without some expression of the rights of the United States, in the question in dispute, without exposing itself to the charge of having abandoned them. He seemed finally to admit that the Congress could not well have avoided doing something in the business, and that the measure which had been adopted ought to be considered as a moderate one. I was glad to hear this sentiment from Mr. Fox, because I had feared that he would urge the passage of the act, as a discharge from the obligation, which his communications with me had in a certain degree imposed on him, in respect to the conditions on which he was disposed to make the settlement, and in which, in some particular and interesting points, he was precise and explicit.

I then observed to Mr. Fox, that I should be glad he would state in the letter which he had promised, his willingness to resume the business, when Mr. Pinkney should arrive, and with a view to conciliation and despatch, ob-

jects which merited attention at the present time, that he would also advert in it to the several subjects, which we had had under consideration, in the sentiments which he had expressed in our conferences. He seemed to be aware that the proposition was a reasonable one, and promised, without hesitation, to comply with it ; but, says he, I am afraid that I cannot be very distinct in it. I replied that I should leave that to himself, but that I presumed he could easily recollect what had passed between us on each point ; that in respect to the trade with enemies' colonies especially, I did suppose that it had been intended by the late order to place it on the ground of the Russian treaty, and that he might go with safety in his letter as far as the order went. He neither admitted or denied the fact explicitly, though he did not seem willing to give his sanction to the inference I had drawn. I criticised the order, as well as I could from memory, to show why I had made the inference, without, however, expressing any approbation of the order. He said, it was true, that the produce of enemies' colonies might, under the exceptions stated in the order, find admission in neutral vessels into the enemies ports, but yet he did not seem willing to admit, that that was the particular object of the order. I did not press this point further, because I saw no motive for it. I concluded, however, from this conversation, as I had done from what had occurred before, that this measure had been taken to prevent the further seizure and condemnation of our vessels on the principle in discussion between our governments, and that the acknowledgment of it had been withheld from a consideration mentioned by Mr. Fox in one of our conferences, that such acknowledgment would be to give up the point in negotiation. Several circumstances, independent of those alluded to, support this idea. It is not necessary to state them, because I trust that the business will ere long be placed on a much more solid footing.

I am, with great respect, &c.

JAMES MONROE.



*Letter from Mr. Madison, Secretary of State, to Messrs. Monroe and Pinkney, Ministers Extraordinary and Plenipotentiary of the United States in London. Department of State, May 17, 1806.*

GENTLEMEN,—I herewith enclose a commission and letters of credence, authorizing you to treat with the British government concerning the maritime wrongs which have been committed, and the regulation of commerce and navigation between the parties. Your authority is made several as well as joint, as a provision for any contingency depriving either of the co-operation of the other.

The importance of the trust is evinced by its being made the occasion of an extraordinary mission, as well as by the subjects which it embraces. And I have great pleasure in expressing the confidence which the President feels, in the prudence and talents to which the business is committed.

It is his particular wish that the British government should be made fully to understand, that the United States are sincerely and anxiously disposed to cherish good will and liberal intercourse between the two nations ; that an unwillingness alone to take measures not congenial with that disposition has made them so long patient under violations of their rights and of the rules of a friendly reciprocity ; and when forced at length by accumulating wrongs to depart from an absolute forbearance, they have not only selected a mode strictly pacifick, but, in demonstration of their friendly policy, have connected with the measure an extraordinary mission, with powers to remove every source of difference, and even to enlarge the foundations of future harmony and mutual interest.

There can be the less ground of umbrage to the British government in the act prohibiting the importation of certain articles of British manufacture, 1st. Because there is nothing on the face of the act beyond a mere commercial regulation, tending to foster manufactures in the United States, to lessen our dependence on a single nation by the distribution of our trade, and to substitute for woollens and linens, manufactures made from one of our principal agricultural staples. 2d. Because it is far short of a recipro-

city with British exclusions of American articles of export. 3d. Because, as a commercial measure, discriminating in time of war, between British and other nations, it has examples in British practice. It deserves attention also, that a discrimination was made, and under another name still exists, in the amount of convoy duty imposed on the trade between Great Britain with Europe, and with America. 4th. Because the measure cannot be ascribed to a partiality towards the enemies of Great Britain, or to a view of favouring them in the war, having for its sole object the interest of the United States, which it pursues in a mode strictly conformable to the rights and the practice of all nations.

In fine the act may truly be represented as so far from derogating from the amicable dispositions of the United States towards Great Britain, that it has resulted solely from the inefficacy of their protracted and reiterated endeavours, otherwise to obtain a just redress, and from a hope that an appeal in this peaceable form to the reflections and interests of an enlightened nation would be more successful in removing every obstacle to a perfect and permanent cordiality between the two nations.

The instructions given to Mr. Monroe, January 5, 1804, having taken into view, and being still applicable to a great proportion of the matter now committed to your joint negotiations, it will be most convenient to refer you to those instructions as your general guide, and to confine the present to the alterations and additions, which a change of circumstances, or a contemplation of new objects, may require.

The first article of the project comprised in the instructions of 1804 relates to the impressment of seamen. The importance of an effectual remedy for this practice derives urgency from the licentiousness with which it is still pursued, and from the growing impatience of this country under it. So indispensable is some adequate provision for the case, that the President makes it a necessary preliminary to any stipulation, requiring a repeal of the act shutting the market of the United States against certain British manufactures. At the same time he authorizes you, in case the ultimatum, as stated in the article above referred to, should not be acceptable to the British government, to substitute one in the terms following: "No seaman nor

seafaring person shall, upon the high seas, and without the jurisdiction of either party, be demanded, nor taken out of any ship or vessel, belonging to the citizens or subjects of one of the parties, by the publick or private armed ships or men of war, belonging to, or in the service of the other party, and strict orders shall be given for the due observance of this engagement."

An article in these terms was, with the acquiescence of lord Hawkesbury and Mr. Addington, concerted between Mr. King and lord St. Vincent, on the approaching renewal of the late war. It was frustrated by an exception of the "narrow seas," inserted by lord St. Vincent; an exception so evidently inadmissible, both in principle and in practice, that it must have been intended as a pretext for evading the stipulation at that time. Perhaps the present ministry may neither be disposed to resort to such a pretext, nor unwilling to avail themselves of the precise sanction as far as it was given by their predecessors.

With respect to contraband, which is the subject of the 4th article, it may be observed, that, as it excludes naval stores from the list, and is otherwise limited to articles strictly military, it must, if admissible to Great Britain, leave but feeble objections to an abolition of contraband altogether. In the present state of the arts in Europe, with the intercourse by land, no nation at war with Great Britain can be much embarrassed by leaving those particular articles subject to maritime captures. Whilst belligerent nations, therefore, have little interest in the limited right against contraband, it imposes on neutrals all the evils resulting from suspicious and vexatious searches, and from questions incident to the terms used in the actual enumeration. It is not an unreasonable hope, therefore, that, in place of this article, an entire abolition of contraband may be substituted. Should this be found unattainable, it may be an improvement of the article, as it stands, to subjoin, for the sake of greater caution, to the positive enumeration, a negative specification of certain articles, such as provisions, money, naval stores, &c. as in no case to be deemed within the meaning of the article; with a proviso, that the specification shall not be construed to imply in the least, that any articles not specified in the exception shall, on that account, be liable to be drawn into question.

A doctrine has been lately introduced by the British courts, and at length adopted by the instructions of June, 1803, to British cruisers, which regards contraband conveyed in one voyage, as affecting a resumed or return voyage, although the contraband shall have been previously deposited at its port of destination. It will be a further improvement of the article to insert a declaratory clause against this innovation, and the abuses incident to it.

The fourth article, besides the stipulation on the subject of contraband, relates to two other objects ; 1st, that of free ships, free goods : 2d, that of a trade with enemies' colonies.

1st. With respect to the first, the principle that a neutral flag covers the property of an enemy, is relinquished in pursuance of the example of the Russian treaty, on which the article is modelled ; the relinquishment, however, being connected with, and conditioned on, the provision required in favour of the neutral right to the colonial trade. The importance of that principle to the security of neutral commerce, and to the freedom of the seas, has at all times been felt by the United States ; and although they have not asserted it as the established law of nations, they have ever been anxious to see it made a part of that law. It was with reluctance, of course, that a contrary stipulation was authorized, and merely as a mean of obtaining from Great Britain the recognition of a principle now become of more importance to neutral nations possessing mercantile capital, than the principle of "free ships free goods." It is to be particularly kept in view, therefore, that such a contrary stipulation is to be avoided, if possible ; and if unavoidable, that the stipulation be so modified as to interfere as little as possible with the spirit and policy of any provisions in favour of the principle which may be likely to be introduced into a treaty of peace among the present belligerent powers of Europe. Should it be known that Russia as well as France mean to insist on such a provision ; and that such a stipulation by the United States, however modified, will materially affect her confidence and good will towards them, the objection to the measure will acquire a force that can yield only to the consideration, that without such a sacrifice, the provisions for the security of our seamen, and of our neutral commerce, cannot be

obtained, and that the sacrifice will effectually answer these purposes.

2d. The vast importance of the colonial trade, with the circumstances and the excitement which have taken place since the date of the original instructions to Mr. Monroe, will require that the neutral right on this subject be provided for in an appropriate article, and in terms more explicit than are used in the article under review. As the right in this case turns on the general principle, that neutrals may lawfully trade, with the exceptions of blockades and contraband, to and between all ports of an enemy, and in all articles, although the trade shall not have been open to them in time of peace, particular care is to be taken, that no part of the principle be expressly or virtually abandoned, as being no part of the law of nations. On the contrary, it is much to be desired, that the general principle, in its full extent, be laid down in the stipulation. But as this may not be attainable, and as too much ought not to be risked by an inflexible pursuit of abstract right, especially against the example and the sentiments of great powers, having concurrent interests with the United States, you are left at liberty, if found necessary, to abridge the right in practice, as is done in the supplement of October, 1801, to the treaty of June of that year, between Russia and Great Britain, not omitting to provide that in case Great Britain should, by her treaties or instructions, leave to any other nation the right in a greater extent than is stipulated to the United States, they may claim the enjoyment of it in an equal extent.

The abuses which have been committed by Great Britain, under the pretext that a neutral trade, from enemy colonies, through neutral ports, was a direct trade, render it indispensable to guard against such a pretext, by some express declaration on that point. The most that can be conceded on the part of the United States is, that the landing of the goods, the securing the duties, and the change of the ship, or preferably the landing of the goods alone, or with the securing the duties, shall be requisite to destroy the identity of the voyage, and the directness of the trade, and that the ordinary documents of the custom-house officers shall be sufficient evidence of the facts or fact.

A satisfactory provision on this subject of a trade with enemy colonies is deemed of so much consequence to the

rights and interests of the United States, and is so well understood to have been contemplated along with a like provision against the impressment of seamen, in the late act of Congress prohibiting the importation of certain classes of British manufactures, that, as was enjoined with respect to the provision against impressment, no stipulation is to be entered into, not consistent with a continuance of that act, unless the provision with respect to the colonial trade be also obtained.

In re-modelling the provision with respect to the colonial trade, you may with great propriety urge a distinction between the West India colonies and the very distant ones in the East Indies and elsewhere, and the reasonableness of limiting to the former the exception of the direct trade with their parent countries out of the general neutral right. The distinction is supported by several considerations, particularly by the greater difficulty, in the case of the more distant colonies, of previously knowing, and eventually proving, the regulations as they may have actually stood in time of peace; and by the ruinous delays and expenses attending the judicial investigations. The British courts have in fact admitted the distinction so far as to presume the lawfulness of the neutral trade with the East India colonies, as being generally open in peace as well as war; whilst they reverse the presumption with respect to the West Indies.

In addition to what is proposed on the subject of blockades in vi and vii articles, the perseverance of Great Britain in considering a notification of a blockade, and even of an intended blockade, to a foreign government, or its ministers at London, as a notice to its citizens, and as rendering a vessel, wherever found in a destination to the notified port, liable to capture, calls for a special remedy. The palpable injustice of the practice is aggravated by the auxiliary rule prevailing in the British courts, that the blockade is to be held in legal force, until the governmental notification be expressly rescinded, however certain the fact may be, that the blockade was never formed or had ceased. You will be at no loss for topicks to enforce the inconsistency of these innovations with the law of nations, with the nature of blockades, with the safety of neutral commerce, and particularly with the communication made to this government by order of the British



government in the year 1804, according to which the British commanders and vice admiralty courts were instructed "not to consider any blockade of the islands of Martinique and Guadaloupe as existing, unless in respect of particular ports which may be actually invested, and then not to capture vessels bound to such ports, unless they shall previously have been warned not to enter them."

The absurdity of substituting such diplomatic notifications in place of a special warning from the blockading ships cannot be better illustrated than by the fact, that, before the notification of a proposed blockade of Cadiz, in the year 1805, was received here from our minister at London, official information was received from Cadiz, that the blockade had actually been raised by an enemy's fleet.

It may be worth your attention, that a distinction has been admitted by the British prize courts, in consideration of the distance of the United States from the European blockades, between their citizens and those of states less distant; the notice required for the former being more positive than is made necessary for the latter. You will be able to avail yourselves in the discussion, and perhaps in the modification of the article, of the reasons on which such a distinction rests.

There remains, as an object of great importance, some adequate provision against the insults and injuries committed by British cruisers in the vicinity of our shores and harbours. These have been heretofore a topick of remonstrance, and have in a late instance been repeated with circumstances peculiarly provoking, as they include the murder of an American seaman within the jurisdictional limits of the United States. Mr. Monroe is in full possession of the documents explaining a former instance. Herewith will be received those relating to the late one. They not only support a just demand of an exemplary punishment of the offenders, and of indemnity for the spoliations, but call for some stipulations guarding against such outrages in future. With this view it is proper that all armed belligerent ships should be expressly and effectually restrained from making seizures, or searches, within a certain distance from our coasts, or taking stations near our harbours, commodious for those purposes.

In defining the distance protected against belligerent proceedings, it would not perhaps be unreasonable, con-

sidering the extent of the United States, the shoalness of their coast, and the natural indication furnished by the well defined path of the Gulf Stream, to expect an immunity for the space between that limit and the American shore. But at least it may be insisted, that the extent of the neutral immunity should correspond with the claims maintained by Great Britain around her own territory. Without any particular inquiry into the extent of these, it may be observed, 1st. That the British act of parliament, in the year 1736, 9 G. 2 c. 35, supposed to be that called the hovering act, assumes for certain purposes of trade the distance of four leagues from the shores. 2d. That it appears, that both in the reign of James I. and Charles II.\* the security of the commerce with British ports was provided for by express prohibitions against the roving or hovering of belligerent ships so near the neutral harbours and coasts of Great Britain, as to disturb or threaten vessels homeward or outward bound, as well as against belligerent proceedings generally within an inconvenient approach towards British territory.

With this example, and with a view to what is suggested by our own experience, it may be expected, that the British government will not refuse to concur in an article to the following effect :

“ It is agreed, that all armed vessels belonging to either of the parties engaged in war shall be effectually restrained by positive orders and penal provisions from seizing, searching, or otherwise interrupting or disturbing vessels, to whomsoever belonging, and whether outward or inward bound, within the harbours, or the chambers formed by headlands, or any where at sea within the distance of four leagues from the shore, or from a right line from one headland to another. It is further agreed, that by like orders and provisions all armed vessels shall be effectually restrained by the party, to which they respectively belong, from stationing themselves, or from roving or hovering so near the entry of any of the harbours or coasts of the other, as that merchantmen shall apprehend their passage to be unsafe, or a danger of being set upon and surprised; and that in all cases where death shall be occasioned by any proceeding contrary to these stipulations, and the offender

\* See L. Jenkins, vol 1, and vol. 2.

cannot conveniently be brought to trial and punishment under the laws of the party offended, he shall on demand made within                      months be delivered up for that purpose."

If the distance of four leagues cannot be obtained, any distance not less than one sea league may be substituted in the article. It will occur to you, that the stipulation against the roving and hovering of armed ships on our coasts, so as to endanger or alarm trading vessels, will acquire importance, as the space entitled to immunity shall be narrowed.

Another object, not comprehended in the instructions of 1804 to Mr. Monroe, is rendered important by the number of illegal captures and injuries, which have been committed by British cruisers since that date. An indemnity for them is due on every consideration of justice and friendship, and is enforced by the example heretofore given by Great Britain herself, as well as by other nations, which have provided by treaty for repairing the spoliations practised under colour of their authority. You will press this as an object too reasonable not to be confidently expected by the United States. Many of the claims, indeed, for indemnification are so obviously just, that a refusal to satisfy them cannot be decently made, and ought not therefore to be presumed.

The two modes most readily presenting themselves for a comprehensive provision for the claims are, first, the establishment of a board, analogous to that provided for in the 7th article of the treaty of 1794; secondly, the substitution of a gross sum to be distributed among the claimants, according to a liquidation to be made under the authority of the United States.

The second is the mode most eligible, if the gross sum to be allowed be thought to approach the amount of losses to be indemnified. To assist you in estimating these, the statements addressed to this department by the underwriters and others, are herewith transmitted. These statements, with those furnished by Mr. Lyman, to November 1st, will be to be reduced according to the redress which shall have been judicially afforded, and on the other hand to be augmented by the addition of cases not reported here, and to be collected from the sources of information within your own reach.

If the first mode should be adopted, great care will be requisite, in describing the cases, to employ such general terms as will comprehend all that are fairly entitled to redress. It will be well at the same time to secure by specifying such of the cases as can be specified, and as are least susceptible of objection. Under this head may be classed, 1st, cases in which the official communication made by lord Hawkesbury to Mr. King, of the 11th day of April, 1801, has been violated: 2d, cases in which the rules of blockade, stated in Mr. Merry's communication to the department of state, on the 12th day of April, 1804, have been violated: 3d, cases where the territorial jurisdiction of the United States has been violated.

The list of neutral rights, asserted in the report of the Secretary of State to the President, on the 25th day of January, 1806, will suggest other specifications which may be attempted. It may be worth recollecting, that the British order of council, bearing date 24th June, 1803, and subjecting to capture vessels on a return voyage, which had carried contraband in the outward voyage, was never promulged, nor was it known that such a rule was to be enforced, until the summer of 1805. Could the rule be regarded otherwise than, as it certainly is, an innovation on the law of nations, all captures before it was made known, and contrary to antecedent practice, would be marked by an unjust surprise, fairly entitling them to redress.

The business to come before such a board may be much diminished by the reference of cases, particularly of costs and damages, and such others whose description by common consent entitles them to redress, to the king's advocate, and an advocate to be named on your part, who may be authorized to report the sums due, subject to the approbation, in each case, of Mr. Lyman, our agent. As far as the cases fall within the observation here made, a liquidation of them may be carried on during the period of negotiation.

Although the subject of indemnifications for past wrongs is to be pressed as of great magnitude, in a satisfactory adjustment of our differences with Great Britain, yet as the British government may be inflexible in refusing an arrangement implying that her maritime principles of capture were contrary to the law of nations, whilst she

would not be inflexible in stipulating a future practice conformable to our wishes, it is not thought proper that a provision for indemnities should be an absolute condition of the repeal of the act of Congress concerning British manufactures, provided satisfactory arrangements shall be made relative to impressments, and the trade with enemies' colonies. Still, however, it is to be kept in view, that there are claims founded on acts of British cruisers, violating the law of nations, as recognised by Great Britain herself, and others founded on unexpected departures, without notice, from rules of practice deliberately settled and formally announced. Of these, examples have been referred to in the communication of lord Hawkesbury to Mr. King, and of Mr. Merry to the department of state.

With respect to claims of these several kinds, it is evident, that provision is clearly due for them, and that it may be made without any implication which can alarm the pride or the caution which may be professed. You will not fail, therefore, to bring, if necessary, these claims into view, as distinguished from others founded on controverted principles; and to let it be understood, that a refusal of them will be a painful ingredient in the negotiations for extinguishing discontents on both sides, and consolidating and perpetuating the friendship between them. In case this distinction should operate in the adjustment, it will furnish an additional reason for preferring a gross sum, to the liquidations of a joint board. First, because it will admit of a liberal sum, if the British government should be liberally disposed, on presumptions not affecting her maritime principles. Secondly, because it will leave the United States free to apply the gross sum, in redressing claims, according to our maritime principles. A precedent for such an expedient may be found in the convention of January, 1756, between Great Britain and Prussia; whereby a gross sum of 20,000 pounds sterling was paid to the latter as an extinguishment of claims on account of illegal captures, without reference to the precise rules by which it was to be applied. The treaty of Pardo, in January, 1739, between Great Britain and Spain, is another precedent. In that treaty the sum of 95,000 pounds sterling was stipulated, in the like general manner, to be paid to Great Britain by Spain, as a compromise for all reparations of maritime injuries.



If the United States succeed in making satisfactory arrangements on the principal points of impressment of seamen, colonial trade, and still more, if provision be also made for indemnity for spoliations, it may be naturally expected, that Great Britain will require not only the repeal of the prohibitory act of last session, but also some security that the United States will not by subsequent acts of the same nature place her on a worse footing than other nations. She may reasonably urge that demand on the double plea of having yielded on those points, which were the subjects of complaint on the part of the United States, and of her being now, for want of a commercial treaty, placed in that respect at the discretion of the United States; whilst they are precluded by their treaties with the enemies of Great Britain (Holland, France, and Spain) from the power of laying prohibitions or restrictions particularly affecting those nations.

The most natural arrangement in that respect will be simply to agree, that the two parties shall enjoy in the ports of each other, in regard to commerce and navigation, the privileges of the most favoured nation. But the article should be framed so as to embrace : 1st, every privilege, and particularly the exemption from higher duties of every description, either on exports or imports, and including convoy duties, that are paid by the most favoured nation; 2d, all the possessions of Great Britain in every part of the world, which will secure admission at all times in both the East and West Indies, on the same terms as are now, or may in future be, enjoyed by the most favoured nation, whether it be a friend, or an enemy.

The same clause of the footing of the most favoured nation may be extended not only to navigation and commercial intercourse between the two nations, but to points which relate to the rights and duties of belligerents and neutrals; an arrangement, which would secure to Great Britain the same rights in relation to the admission of her armed vessels in our ports, and to the exclusion of her enemies' privateers and of their prizes, which are now enjoyed by Holland, Spain, and other most favoured nations; whilst it would place the rights of the United States, as neutrals, on the same footing with Russia, or the most favoured nation, in respect to search, convoys, blockades, and contraband.



If it shall be thought eligible to place the reciprocal commercial privileges of the two nations on a more definite basis than they would be placed by the general expression of the most favoured nation (a stipulation which is liable to the difficulty of ascertaining the equivalent to be given in cases where a privilege is granted by one of the contracting parties to another nation, in exchange for some favour, which the other contracting party cannot specifically give) it may be done, either by abolishing all alien duties, either on vessel or cargo, or both, and reciprocally placing the vessels of the other nation on the same footing with national vessels; conformably to a provision in which Great Britain concurred, by an act of parliament, in the year 1802; or by fixing the maximum of alien duty, which each nation shall have the right to impose on the vessels or cargoes of the other nation. But should the last plan be adopted, care must be taken, 1st. That in fixing the maximum of the alien duty to be levied on vessels, all charges whatever, and under whatever name known, whether tonnage, light house money, port charges, &c. shall be included. 2dly. That the maximum of the alien duty to be levied on merchandise imported in the vessels of the other nation, (beyond the duties levied on similar articles imported in the national vessels) shall be a per centage on the value of the merchandise itself, and not on the original duty. 3dly. That the right of imposing such maximum duties, either on the vessels or merchandise, shall never be exercised so as to contravene the other stipulation of enjoying the privileges of the most favoured nation. 4thly. That the stipulations shall not embrace vessels and cargoes coming from, or going to ports, from which the vessels or cargoes of the United States are excluded.

Should the expedient of a maximum be adopted, it must not be overlooked that the productions of the United States exported to Great Britain, employ a far greater tonnage than the exports from Great Britain to the United States; that the higher the maximum, therefore, the more favourable to Great Britain, who may avail herself according to the degree of it, to secure to her vessels the carriage of our bulky productions, of which her duty on tobacco imported in American vessels, is an example, leaving to the United States the opportunity only of securing to their vessels the carriage of her unbulky exports; and

that consequently no maximum ought to be admitted more unfavourable to the United States, than the regulations likely to prevail, if uncontrolled by treaty. A mutual abolition of alien duties would probably be favourable to the navigation of the United States, which would then have to contend on equal terms with British navigation, for which it may be expected to be a match at least at all times, and more than a match when Great Britain is at war, which is not less than half the time.

The only great branch of commercial intercourse which would remain unprovided for, is that of intercourse with the British colonies and dependencies; and if nothing can be obtained on that ground, care also must be taken in framing the article for reciprocally enjoining the privileges of the most favoured nation, not to deprive the United States of the right of making such regulations as they may think proper in relation to vessels coming from ports from which their own vessels are excluded, or in relation generally to the intercourse with such ports.

As relates to the West Indies and North American colonies, it must be a permanent object of the United States to have the intercourse with them made as free as that with Europe. The relative situation of the United States and those colonies, and particularly those wants which we can alone supply, must necessarily produce that effect at some no very distant period. And it should not be voluntarily retarded either by abandoning by treaty the strong hold which our right of stopping the intercourse gives us; or by accepting any temporary or trifling privilege, the exercise of which would diminish the probability of soon obtaining a perfectly free trade.

The minimum which should be accepted in relation to the intercourse with the West Indies, will be the admission of our vessels laden solely with articles of our growth, produce, or manufacture, the importation of which in British vessels is not prohibited, on the same terms as British vessels, solely laden with the colonial articles, shall be admitted into our ports; that is to say, either without alien duties, or with a fixed maximum of such alien duties, with the two following restrictions: 1st. That Great Britain may prohibit our vessels from exporting from the British West India islands in sugar and coffee, more than one half of the proceeds of their inward cargoes: 2d. That

such sugar and coffee shall be exported only to the United States, or that the vessels thus admitted in the West Indies shall be obliged to return and land their cargoes in the United States, provided they may, however, on their return, touch at any other West India island or the Bahamas, to complete their cargo. For it is usual to carry the specie which proceeds from the sale of a cargo in the West Indies to Turks island or the Bahamas, and there load with salt for the United States. Although those restrictions, and particularly the first, be inconvenient, yet they may be acquiesced in. As respects the first restriction, the value of our average exportations to the British West India islands, being six millions of dollars, and our exportations from thence in every article (sugar and coffee excepted) being three millions of dollars, the privilege of bringing in return, in sugar and coffee, one half of the value of our exportations, will just complete the return cargoes. But it would be desirable that the restriction should be altogether dispensed with, or that Great Britain should allow the exportation in those two articles to the amount of two-thirds or three-fourths of the value of our cargoes. As relates to Great Britain, if she once yields the point of admission, the restrictions which are proposed seem to be amply sufficient to remove her minor objections. We now import, notwithstanding the nominal prohibitions to some amount in American vessels, about one million and a half of dollars, being the whole amount imported from the British islands, in both American and British vessels. The value of our average importations from all the world, is,

In sugar, 7,800,000	} or more than sixteen millions of
In coffee, 8,400,000	

The value of our annual consumption, exclusively of the New Orleans sugar, is,

In sugar, 4,000,000	} or five and a half millions of dol-
In coffee, 1,500,000	

To permit us, therefore, to import for three millions of dollars, compared with the value of the sugar and coffee exported annually from the British West Indies, which amounts to not less than millions, cannot in any degree affect their own commerce or navigation.

The second restriction is intended still more effectually to remove any apprehension that our vessels might become carriers of British West India produce to any other country than the United States. And it may even, if insisted on, be further agreed that no drawback shall be allowable on the re-exportation of those articles imported from the British West Indies in American vessels; provided, however, that on that condition the first mentioned restriction, limiting the quantity which may be thus imported from the British West Indies in American vessels, shall be dispensed with. The utmost care is to be taken in framing the restriction on re-exporting from the United States, the produce of the British West Indies, imported in American vessels, so to express it as to leave no possible pretext for applying the restriction to any similar articles, whether produced within the United States or imported from any other than British possessions.

It will be a reasonable stipulation on the part of Great Britain, that at all times and places at which the trade of the United States is admitted generally, or partially, the residence of consuls and factors shall be also admitted.

The duration of the commercial part of the treaty and of any other parts which do not establish in their full extent, the rights of neutral nations, ought not to exceed the term of eight years, and an abridgment even of that term may perhaps be rendered expedient by the tenour of articles not inconsistent with those instructions.

I have the honour to be, gentlemen, &c.

JAMES MADISON.

*From Mr. Madison to Messrs. Monroe and Pinkney. Department of State, May 30, 1806.*

GENTLEMEN,—Under the third article of the treaty of 1794, as it has been expounded, Indian traders on each side have a right to resort to and trade with the tribes within the limits of the other party, with an exception of the country covered by the charter of the Hudson's Bay company.

This article is found in its operation to be very seriously detrimental to the United States.

1st. It gives to the British traders dealing with the Indians on our side of the boundary, opportunities of gaining an influence which, it cannot be doubted, they have frequently employed in stirring up the Indians against the United States.

2d. The mixture of British traders with the American traders produces collisions and heart burnings, with mutual efforts to make the Indians their partisans, and sometimes their avengers, against the property and persons of their rivals.

3d. The animosity of the British traders in such cases against their rivals, is easily extended against the United States, and the Indian partisans still more readily pass from a vindictive spirit against the American traders, to a hostile one against the nation to which they belong.

4th. The intrusion of these foreign traders among the Indians, by disturbing harmony and good order, and above all, by clandestinely introducing ardent spirits, counteract the benevolent provisions and steady efforts of the government of the United States, to abolish the savage manners of those tribes, and to substitute the arts of civilized life, not less conducive to their own happiness, than to the peace of our neighbouring settlements.

5th. These evils are not even attended with any real reciprocity of advantage to the American traders; it being a fact that they never go among the Indians on the British side for the purpose of traffick; and it being moreover known that such a traffick is rendered unsafe by the sway possessed over the Indians by the North West Company of British traders, and by the preventive measures employed by their interested jealousies. It is indeed certain that no British trader, not of the company, can with advantage, or as is said even with safety, participate in the trade with Indians within the British limits.

These observations which are strengthened by the unlimited duration of the stipulation, sufficiently explain the importance of amending the article in such a manner as will mutually authorize the parties to confine the Indian trade within their respective limits, to their own traders.

The British government, though vigilant and habitually rigid in maintaining every commercial advantage, may perhaps, in a moment of liberality and of general adjustment, listen to such an amendment: and it is the wish of



the President, that the experiment be made. In recommendation of the change, you will be able to remind them, 1st. That it will have the valuable effect of cutting off for ever one source of jealousy and ill will. 2d. That as the stipulated privilege does not extend to Louisiana, but is limited by the treaty to the small tribes eastward of the Mississippi, and by circumstances still further limited to those north west of the Ohio, the trade is in itself of too little weight to be put into the scale against the advancement of friendship and harmony. 3d. That the value of the privilege to Great Britain is reduced to almost nothing, by the consideration, that whether this scanty portion of Indian trade be carried on by American or British traders, the goods furnished will be of British manufacture, and that if furnished by the former, the peltries and furs taken in return will be added to the surplus of those articles now exported free of duty, from the United States to Great Britain.

I have the honour to be, &c.

JAMES MADISON.

*From Mr. Madison, to Messrs. Monroe and Pinkney. Department of State, June 11, 1806.*

GENTLEMEN,—Since the date of my last, (May 30th,) I have obtained from the Secretary of War, the enclosed copies of a correspondence between an officer of the United States, and an agent of the British North West Company, for the Indian trade. The correspondence may be of use in explaining the inconveniences resulting from the constructive permission given by the treaty of 1794, to British traders, to carry on trade among the Indians within the limits of the United States; and the importance of such an amendment of the treaty, as has been suggested to you.

I enclose also, as connected with the subject, copies of two letters from this department to Mr. Merry, and of the opinion of the attorney general, in answer to a claim of British traders, to carry supplies of merchandise to the Indian tribes within the limits of Louisiana; and to certain immunities in their general trade with our Indians.

I have the honour to be, &c.

JAMES MADISON



*From Mr. Madison, to Messrs. Monroe and Pinkney. Department of State, Nov. 28, 1806.*

GENTLEMEN,—Your despatch of the 11th September, has been duly received. Although the tenour of the discussions which it recites does not exhibit, on the part of the British commissioners, the readiness in yielding to the justice of our claims, and to the energy of your statements, which might be wished : yet the general spirit of conciliation with which they profess and appear to have met you, cherishes a hope that further explanations on your part, and reflection on theirs, will have brought the negotiation to a favourable result. In this hope, and in consideration of the amicable views and manner in which a suspension of the non-importation act is pressed, the President has not hesitated in his determination to recommend the measure to Congress, whose session will commence on Monday next. This will be done, not in his first general message, which has been already put into its final form, but in a message appropriated to the subject, which will follow as soon as the course of business will conveniently admit.

In your communication of this compliance, so far as depends on the President, with the object of the British commissioners, seconded by your recommendation, you will not fail to let it be understood as a proof of his earnest desire to smooth the way to a happy adjustment of all differences between the two nations ; and to make every sacrifice for the purpose which may be reconcilable with that consistency and just policy in the national proceedings, which cannot be abandoned.

This letter, with another to Mr. Monroe, will be put into the hands of Mr. Merry, who, in consequence of the arrival of Mr. Erskine, is now on his return. I have made him acquainted with the general posture of your negotiations, and with the intention of the President to recommend to Congress the proposed suspension of the prohibitory act.

I have the honour to be, &c.

JAMES MADISON.

*From Mr. Madison, to Messrs. Monroe and Pinkney. Department of State, Dec. 3, 1806.*

GENTLEMEN,—The President having this day complied with the recommendation in your letter of September 11, by a special message to Congress, on the subject of the non-importation act of the last session, I lose not a moment in forwarding to Mr. Merry's care, the enclosed copy; hoping that it will either find him still at Alexandria, or overtake him before the vessel gets out of reach.

I remain, &c.

JAMES MADISON.

*From Mr. Madison to Messrs. Monroe and Pinkney. Department of State, Dec. 6, 1806.*

GENTLEMEN,—The detention of the Leonidas enables me to enclose a copy of the bill, suspending the non-importation act of the last session, as it was passed by the House of Representatives, this day, with only five dissenting voices.

In the object, the house is supposed to have been unanimous, the difference of opinion being produced by a disagreement about the time to which the suspension should be limited. As the bill passed with unusual celerity, it is not improbable that the suspension may be further extended by the Senate, especially as a proposal to suspend, till the 30th December next, was lost, by a majority of sixty to forty, in the house.

Enclosed I transmit a copy of the documents referred to in the President's message, respecting the approaches of the Spaniards upon the Orleans territory, and a few printed copies of the special message recommending a suspension of the non-importation law.

I have the honour to be, &c.

JAMES MADISON.

*From Mr. Madison to Messrs. Monroe and Pinkney. Department of State, Dec. 20, 1806.*

GENTLEMEN,—You will have seen by my letter of the 6th, which went by sundry other conveyances, that the bill suspending the non-importation act had passed the House of Representatives. I now enclose it in the form of a law, with an amendment, providing for a further suspension by the Executive, in case the state of things between the two countries should require it. In the Senate, the vote for the bill was unanimous. I add a continuation of the newspapers, and refer to them for the current information of a publick nature.

I have the honour to be, &c.

JAMES MADISON.

*From Mr. Madison to Messrs. Monroe and Pinkney. Department of State, Feb. 3, 1807.*

GENTLEMEN,—The triplicate of your communications of November 11th has just been received. Those of September 11th had been previously received in due time.

The turn which the negotiation has taken was not expected, and excites as much of regret as of disappointment. The conciliatory spirit manifested on both sides, with the apparent consistency of the interest of Great Britain, with the right of the American flag, touching impressments, seemed to promise as much success to your efforts on that subject as on the others, and notwithstanding the perseverance of the British cabinet in resisting your reasonable propositions, the hope is not abandoned that a more enlightened and enlarged policy will finally overcome scruples which doubtless proceed more from habits of opinion, and official caution, than from an unbiassed regard to all the considerations which enter into the true merits of the question.

In the mean time, the President has, with all those friendly and conciliatory dispositions which produced your mission, and pervade your instructions, weighed the arrangement held out in your last letter, which contemplates a formal adjustment of the other topics under discussion, and an informal understanding only on that of impressment.

The result of his deliberations which I am now to state to you, is, that it does not comport with his views of the national sentiment or the legislative policy, that any treaty should be entered into with the British government which, whilst on every other point it is either limited to, or short of strict right, would include no article providing for a case which, both in principle and in practice, is so feelingly connected with the honour and sovereignty of the nation, as well as with its fair interests; and indeed with the peace of both nations.

The President thinks it more eligible, under all circumstances, that if no satisfactory or formal stipulation on the subject of impressment be attainable, the negotiation should be made to terminate without any formal compact whatever; but with a mutual understanding, founded on friendly and liberal discussions and explanations, that in practice each party will entirely conform to what may be thus informally settled. And you are authorized, in case an arrangement of this kind shall be satisfactory in its substance, to give assurances that, as long as it shall be duly respected in practice by the other party, more particularly on the subjects of neutral trade and impressments, it will be earnestly and, probably, successfully recommended to Congress by the President, not to permit the non-importation act to go into operation. You are also authorized to inform the British government that the President, adhering to the sentiments which led him to recommend to Congress at the commencement of the session a suspension of that act, and trusting to the influence of mutual dispositions and interests in giving an amicable issue to the negotiations, will, if no intervening intelligence forbid, exercise the authority vested in him by the act of continuing its suspension from the 1st day of July to the time limited by the act, and which will afford to Congress, who will then be in session, the opportunity of making due provision for the case.

You will perceive that this explanation of the views of the President requires, that if, previous to the receipt of it, a treaty not including an article relating to impressments should have been concluded, and be on the way, the British commissioners should be candidly apprized of the reason for not expecting its ratification; and that on this ground they be invited to enter anew on the business,

with an eye to such a result as has just been explained and authorized.

Having thus communicated the outline assigned by the President as your guide in the important and delicate task on your hands, I proceed to make a few observations which are suggested by the contents of your last despatches, and which may be of use in your further discussions and your final arrangements.

*Impressments.*

The British government is under an egregious mistake in supposing that "no recent causes of complaint have occurred," on this subject. How far the language of Mr. Lyman's books may countenance this error, I cannot say, but I think it probable that, even there, the means of correcting it may be found.

In the American seas, including the West Indies, the impressments have, perhaps, at no time been more numerous or vexatious. It is equally a mistake therefore to suppose "that no probable inconvenience can result from the postponement of an article" for this case.

The remedy proposed in the note from the British commissioners, however well intended, does not inspire the confidence here which gave it so much value in their judgment. They see the favourable side only of the character of their naval commanders. The spirit which vexes neutrals in their maritime rights is fully understood by neutrals only. The habits generated by naval command, and the interest which is felt in the abuse of it, both as respects captures and impressments, render inadequate every provision which does not put an end to all discretionary power in the commanders. As long as the British navy has so complete an ascendancy on the high seas, its commanders have not only an interest in violating the rights of neutrals within the limits of neutral patience, especially of those whose commerce and mariners are unguarded by fleets, they feel moreover the strongest temptation, as is well known from the occasional language of some of them, to covet the full range for spoliation opened by a state of war. The rich harvest promised by the commerce of the United States, gives to this cupidity all its force. Whatever general injuries might accrue to their nation, or whatever surplus of reprisals might result to American

cruisers, the fortunes of British cruisers would not be the less certain in the event of hostilities between the two nations.

Whilst all these considerations require in our behalf the most precise and peremptory security against the propensities of British naval commanders, and on the tender subject of impressment more than any other, it is impossible to find equivalent or even important motives on the British side for declining such a security. The proposition which you have made, aided by the internal regulations which the British government is always free to make, closes all the considerable avenues through which its seamen can find their way into our service. The only loss consequently which could remain, would be in the number at present in this service, with a deduction of those who might from time to time voluntarily leave it, or be found within the limits of Great Britain, or of her possessions : and in the proportion of this reduced number who might otherwise be gained by impressment. The smallness of this loss appears from the annual amount of impressments, which has not exceeded a few hundred British seamen ; the great mass consisting of real Americans, and of subjects of other neutral powers. And even from the few British seamen ought to be deducted those impressed within neutral ports, where it is agreed that the proceeding is clearly unlawful.

Under this view of the subject, the sacrifice which Great Britain would make, dwindles to the merest trifle ; or rather there is just reason to believe, that, instead of a loss, she would find an actual gain, in the excess of the deserters who would be surrendered by the United States, over the number actually recoverable by impressment.

In practice, therefore, Great Britain would make no sacrifice by acceding to our terms ; and her principle, if not expressly saved by a recital, as it easily might be, would in effect be so by the tenour of the arrangement ; inasmuch as she would obtain for her forbearance to exercise what she deems a right, a right to measures on our part, which we have a right to refuse ; she would, consequently, merely exchange one right for another ; she would also, by such a forbearance, violate no personal right of individuals under her protection. The United States, on the other hand, in yielding to the claims of



Great Britain on this subject, would necessarily surrender what they deem an essential right of their flag, and of their sovereignty, without even acquiring any new right; would violate the rights of the individuals under the protection of both; and expose their native citizens to all the calamitous mistakes, voluntary and involuntary, of which experience gives such forcible warning.

I take for granted that you have not failed to make due use of the arrangement concerted by Mr. King with lord Hawkesbury, in the year 1802, for settling the question of impressments. On that occasion, and under that administration, the British principle was fairly renounced in favour of the right of our flag: lord Hawkesbury having agreed to prohibit impressments altogether on the high seas, and lord St. Vincent requiring nothing more than an exception of the narrow seas, an exception resting on the obsolete claim of Great Britain to some peculiar dominion over them. I have thought it not amiss to enclose another extract from Mr. King's letter, giving an account of that transaction.

In the note of November 8, from the British commissioners, the security held out to the crews of our vessels is, that instructions have been given, and *will be repeated*, for enforcing the greatest caution, &c. If the future instructions are to be repetitions of the past, we well know the inefficacy of them. Any instructions which are to answer the purpose, must differ essentially from the past, both in their tenour and their sanctions. In case an informal arrangement should be substituted for a regular stipulation, it may reasonably be expected from the candour of the British government, that the instructions on which we are to rely, should be communicated to you.

### *Colonial Trade.*

It may reasonably be expected that on this subject the British government will not persist in attempting to place the United States on a worse footing than Russia. In agreeing to consider the storing for a *month*, and changing the ship, as a naturalization of the property, the concession would be on our side, not on theirs; and in making this a condition on which alone we could trade with enemy colo-

nies, even directly to and from our own ports, beyond the amount of our own consumption, we should make every sacrifice short of a complete abandonment of our principle, while they would retain as much of their pretension as is compatible with any sacrifice whatever ; a pretension too which they have in so many ways fairly precluded themselves from now maintaining. In addition to the many authorities for this remark, already known to you, you will find one of the highest grade in 5th vol. of Tomlin's edition of Brown's cases in Parliament, p. 328, Hendricks and others against Cunningham and others, where it was expressly admitted by the house of lords, in a war case before them, that "it is now established by repeated determinations, that neither ships nor cargoes, the property of subjects of neutral powers, either going to trade *at* or coming *from* the French West India islands, with cargoes purchased there, are liable to capture ; and therefore, when a ship and cargo so circumstanced are seized and condemned, the seizure and condemnation shall be reversed, and the value of the ship and cargo accounted for and paid to the owners by the captors."

As it has generally happened, that the British instructions issued to the vice admiralty courts and naval commanders, have not come first to light in British prints, I enclose one of November 14, which has just made its appearance in ours. As it relates to the present subject, it claims attention as a proof that all question as to the legality of the voyage, in a Russian trade with the enemies of Great Britain, is excluded, by limiting the right of capture to cases where the *innocence* or *ownership* of the *articles* are questioned. The instruction may at least be considered as co-extensive in its favourable import with the article in the Russian treaty, which you have been authorized to admit into your arrangements ; and in that view, as well as on account of its date, the instruction may furnish a convenient topick of argument or expostulation.

If the British government once consent that the United States may make their ports a medium of trade between the colonies of its enemies and other countries, belligerent as well as neutral, why should there be a wish to clog it with the regulations suggested ? Why not, in fact, consent to a direct trade by our merchants, between those colonies and all other countries ? Is it that the price may be a little

raised on the consumers by the circuit of the voyage and the charges incident to the port regulations? This cannot be presumed. With respect to the enemies of Great Britain, the object would be unimportant. With respect to her neutral friends, it would not be a legitimate object. Must not the answer then be sought in the mere policy of lessening the competition with, and thereby favouring the price of British and other colonial productions re-exported by British merchants from British ports; and sought consequently not in a belligerent right, or even in a policy merely belligerent, but in one which has no origin or plea but those of commercial jealousy and monopoly.

### *Blockades.*

On this subject, it is fortunate that Great Britain has already, in a formal communication, admitted the principle for which we contend. It will be only necessary, therefore, to hold her to the true sense of her own act. The words of the communication are, "that vessels must be *warned* not to enter." The term *warn*, technically imports a distinction between an individual notice to vessels, and a general notice by proclamation, or diplomatic communication; and the terms *not to enter*, equally distinguishes a notice at or very near the blockaded port, from a notice directed against the original destination or the apparent intention of a vessel, nowise approaching such a port.

### *Marginal Jurisdiction on the High Seas.*

There could surely be no pretext for allowing less than a marine league from the shore, that being the narrowest allowance found in any authorities on the law of nations. If any nation can fairly claim a greater extent, the United States have pleas which cannot be rejected; and if any nation is more particularly bound by its own example not to contest our claim, Great Britain must be so by the extent of her own claims to jurisdiction on the seas which surround her. It is hoped, at least, that within the extent of one league you will be able to obtain an effectual prohibi-

bition of British ships of war from repeating the irregularities which have so much vexed our commerce, and provoked the publick resentment; and against which an article in your instructions emphatically provides. It cannot be too earnestly pressed on the British government, that in applying the remedy copied from regulations heretofore enforced against a violation of the neutral rights of British harbours and coasts, nothing more will be done than what is essential to the preservation of harmony between the two nations. In no case is the temptation or the facility greater to ships of war for annoying our commerce, than in their hovering on our coasts and about our harbours; nor is the national sensibility in any case more justly or more highly excited, than by such insults. The communications lately made to Mr. Monroe, with respect to the conduct of British commanders, even within our own waters, will strengthen the claim for such an arrangement on this subject, and for such new orders from the British government, as will be a satisfactory security against future causes of complaint.

*East and West India Trades.*

If the West India trade cannot be put on some such footing as is authorized by your instructions, it will be evidently best to leave it as it is; and of course, with a freedom to either party to make such regulations as may be justified by those of the other.

With respect to the East India trade, you will find a very useful light thrown on it in the remarks of of which several copies were forwarded in October. They will confirm to you the impolicy, as explained in your instructions, of putting the trade under the regulations admitted into the treaty of 1794. The general footing of other nations, in peace with Great Britain, will be clearly more advantageous; and on this footing it will be well to leave or place it, if no peculiar advantages, of which there are intimations in remarks, can be obtained.

*Indemnifications.*

The justice of these ought to be admitted by Great Britain, whenever the claim is founded on violations of our rights, as they may be recognised in any new arrangement or understanding between the parties. But in cases, of which there are many examples, where the claim is supported by principles which she never contested, the British government ought to have too much respect for its professions and its reputation, to hesitate at concurring in a provision analogous to that heretofore adopted.

It is not satisfactory to allege that in all such cases redress may be attained in the ordinary course of judicial proceedings. If this were true, there would be sound policy, as well as true equity and economy, in transferring the complaints from partial tribunals, occupied with a great mass of other cases, to a joint tribunal, exclusively charged with this special trust. But it is not true that redress is attainable in the ordinary course of justice, and under the actual constitution and rules of the tribunals which administer it in cases of captures. Of this the facts within your knowledge, and particularly some which have been lately transmitted to Mr. Monroe, are ample and striking proofs; and will doubtless derive, from the manner of your presenting them, all the force with which they can appeal to the sentiments and principles, which ought to guide the policy of an enlightened nation.

I have the honour to be, &c.

JAMES MADISON.

*From Mr. Madison to Messrs. Monroe and Pinkney. Department of State, March 18, 1807.*

GENTLEMEN.—Your despatch of January 3, with the treaty, signed December 31, with the British commissioners, were safely delivered on the 15th inst. Your letter of December 27, notifying the approach of that event, had been previously received in time to be included in a communication of the President to Congress, then in session. A copy of the instrument in its actual form, with the declaration of the British commissioners on sign-

ing it, was received by Mr. Erskine on the day of the adjournment of Congress, and communicated by him to the Executive.

The observations relating to the whole subject, as it is now presented, with such instructions in detail as will explain the views of the President, will be prepared with as little delay as possible, and transmitted by Mr. Purviance, who holds himself in readiness to be the bearer.

For the present I am charged by the President to refer you to my letter of Feb. 3, and to signify his desire that the negotiation may proceed in the form therein stated, but without being brought to an absolute conclusion until further instructions shall arrive.

You will conform also to the views of the President in forbearing to enter into any conventional arrangements with the British government, which shall embrace a trade or intercourse of its subjects with the Indian tribes within any part of the territories westward of the Mississippi under the authority of the United States. Considerations derived from a recent knowledge of the state, and of the aboriginal inhabitants of that extensive region, irresistibly oppose the admission of foreign traders into it.

I have only to add, that a proclamation will immediately issue, suspending the non-importation measure until the next session of Congress. This will be a sufficient evidence to the British government of the conciliatory sentiments of the President, and of his sincere desire that no circumstance whatever may obstruct the prosecution of experiments for putting an end to differences, which ought no longer to exist between two nations having so many motives to establish and cherish a mutual friendship.

I have the honour to be, &c.

JAMES MADISON.

*From Mr. Madison to Messrs. Monroe and Pinkney. Department of State, May 20, 1807.*

GENTLEMEN,—My letter of March 18 acknowledged the receipt of your despatches, and of the treaty signed on the 31st of December, of which Mr. Purviance was the bearer, and signified, that the sentiments and views of the President, formed on the actual posture of our affairs with Great Britain, would without any useless delay be communi-



cated. The subject is accordingly resumed in this despatch, with which Mr. Purviance will be charged. To render his passage the more sure and convenient, he takes it in the sloop of war Wasp, which will convey him to a British port, on her way to the Mediterranean. She will touch also at a French port, probably L'Orient, with despatches for general Armstrong and Mr. Bowdoin, and will afford a good opportunity for any communications you may have occasion to make to those gentlemen.

The President has seen in your exertions to accomplish the great objects of your instructions, ample proofs of that zeal and patriotism in which he confided; and feels deep regret that your success has not corresponded with the reasonableness of your propositions, and the ability with which they were supported. He laments more especially that the British government has not yielded to the just and cogent considerations which forbid the practice of its cruisers in visiting and impressing the crews of our vessels, covered by an independent flag, and guarded by the laws of the high seas, which ought to be sacred with all nations.

The President continues to regard this subject in the light in which it has been pressed on the justice and friendship of Great Britain. He cannot reconcile it with his duty to our sea-faring citizens, or with the sensibility or sovereignty of the nation, to recognise even constructively a principle, that would expose on the high seas their liberty, their lives, every thing, in a word, that is dearest to the human heart, to the capricious or interested sentences, which may be pronounced against their allegiance by officers of a foreign government, whom neither the law of nations, nor even the laws of that government, will allow to decide on the ownership or character of the minutest article of property found in a like situation.

It has a great and necessary weight also with the President, that the views of Congress, as manifested during the session which passed the non-importation act, as well as the primary rank held by the object of securing American crews against British impressment, among the objects which suggested the solemnity of an extraordinary mission, are opposed to any conventional arrangement, which, without effectually providing for that object, would disarm the United States of the means deemed most eligible as an eventual remedy.

It is considered, moreover, by the President, the more reasonable, that the necessary concession in this case should be made by Great Britain, rather than by the United States, on the double consideration, first, that a concession on our part would violate both a moral and political duty of the government to our citizens, which would not be the case on the other side; secondly, that a greater number of American citizens, than of British subjects, are in fact impressed from our vessels; and that, consequently, more of wrong is done to the United States than of right to Great Britain, taking even her own claim for the legal criterion.

On these grounds, the President is constrained to decline any arrangement, formal or informal, which does not comprise a provision against impressments from American vessels on the high seas, and which would, notwithstanding, be a bar to legislative measures, such as Congress have thought or may think proper to adopt for controlling that species of aggression.

Persevering at the same time in his earnest desire to establish the harmony of the two nations on a proper foundation, and calculating on the motives which must be equally felt by Great Britain to secure that important object, it is his intention that your efforts should be renewed, with a view to such alterations of the instrument signed on the 31st December, as may render it acceptable to the United States.

That you may the more fully understand his impressions and purposes, I will explain the alterations which are to be regarded as essential; and proceed then to such observations on the several articles, as will show the other alterations which are to be attempted, and the degree of importance respectively attached to them.

1st. Without a provision against impressments, substantially such as is contemplated in your original instructions, no treaty is to be concluded.

2d. The eleventh article, on the subject of colonial trade, cannot be admitted, unless freed from the conditions which restrict to the market of Europe the re-exportation of colonial produce, and to European articles, the supplies to the colonial market.

3d. The change made by the third article in the provisions of the treaty of 1794, relative to the trade with the

British possessions in India, by limiting the privilege to a direct trade *from* the United States as well as *to* them, is deemed an insuperable objection.

4th. Either an express provision is to be insisted on for indemnifying sufferers from wrongful captures, or at least a saving, in some form or other, of their rights against any implied abandonment.

5th. Articles 18 and 19 to be so altered as to leave the United States free, as a neutral nation, to keep and place other belligerent nations on an equality with Great Britain.

6th. No such alternative as is presented by the declaratory note on the subject of the French decree of November 21st, 1806, will be admissible.

First. The considerations which render a provision on the subject of impressments indispensable, have been already sufficiently explained.

Second. The essential importance of the amendment required in the 11th article, results from the extensive effect which the article, if unamended, would have on the system of our commerce, as hitherto carried on with the sanction or acquiescence of Great Britain herself.

It was hoped that the British government, in regulating the subject of this article, would at least have yielded to the example of its treaty with Russia. It could not have been supposed that a modification would be insisted on, which shuts to our neutral commerce important channels, left open by the adjudications of British courts, and particularly by the principle officially communicated by that government to this, through Mr. King, in the year 1801.

According to that principle and those adjudications, the indirect trade through our neutral ports was as free from enemy colonies to every other part of the world as to Europe; and as free to such colonies in the articles of all other countries, as in European articles.

According to the tenour of the article, and the general prohibitory principle assumed by Great Britain, to which it has an implied reference, the productions both of the continental and of the insular colonies in America can no longer be re-exported as heretofore to any part of Asia or Africa, or even of America, and consequently can no longer enter into the trades carried on from the United States to the Asiatic or African shores of the Mediterranean, nor

to any of the places beyond the Cape of Good Hope, offering a market for them ; nor finally to any other enemy or neutral colonies in this quarter, to which in reason, as well as according to practice, they ought to be as re-exportable as to the countries in Europe to which such colonies belong.

In like manner the importations from beyond the Cape of Good Hope, more especially the cotton fabricks of China and India, can no longer be sent as heretofore to the West Indies or the Spanish Main, where they not only now yield a great profit to our merchants, but being mixed in cargoes with the produce of this country, facilitate and encourage the trade in the latter. Besides the effect of the article in abridging so materially our valuable commerce, the distinction which it introduces between the manufactures of Europe, and those of China and India, is chargeable with evils of another sort. In many cases it might not be easy to pronounce on the real origin of the articles. It is not improbable, that supposititious attempts also, might be occasionally made by the least scrupulous traders. With such pretexts as these, arguing from the abuse made of less plausible ones, the interruptions and vexations of our trade by the greedy cruisers which swarm on the ocean could not fail to be augmented in a degree not a little enforcing the objection to the article in its present form.

As the prohibitory principle of Great Britain does not extend to the case of a colonial trade usually open, and no judicial decision has professedly applied the principle to such a trade, it is a reasonable inference, that the article will not be so construed as to interfere with the trade of that description between enemy colonies beyond the Cape of Good Hope and other countries and ports in that quarter. But on the other hand, it may not be amiss to guard against a construction of the article that would abolish the rule observed in the prize courts of Great Britain, which, in the case of the eastern colonies, presumes that these ports were always open, and thereby throws on the captors, instead of the claimants, the disadvantage of proving the fact in question.

It is observable, that the duration of this article is limited to the period of the present hostilities, whilst the others are to be in force for ten years : so that if there

should be a peace and a renewal of the war, as is very possible, within the latter period, the onerous parts of the bargain would survive a part, in consideration of which they were assumed. Justice and reciprocity evidently require that the more important articles of the treaty should be regarded as conditions of each other, and therefore that they should be co-durable. In this point of view, you will bring the subject under reconsideration; and without making this particular amendment an ultimatum, press it with all the force which it merits. This amendment ought to be the less resisted on the British side, as it would still leave to that side an advantage resulting from the nature of the two great objects to be attained by the United States, namely, the immunity of our crews, and of our neutral commerce, which are connected with a state of war only; whereas the stipulations valued by Great Britain will operate constantly throughout the period of the treaty, as well in a state of peace as in a state of war.

Whatever term may finally be settled for the continuance of this regulation, it will be proper to retain the clause which saves the right involved in the article from any constructive abandonment or abridgment. Even the temporary modification of the right, as it will stand without the inadmissible restrictions now in the article, is considered as an important sacrifice on the part of the United States to their desire of friendly adjustment with Great Britain. To an admission of the article with those restrictions, the President prefers the footing promised to the colonial trade by the deference of Great Britain for the maritime powers, and by an unfettered right of the United States to adapt their regulations to the course which her policy may take.

That the operation of the article in its present form might be more fully understood, it was thought proper to avail the publick of the ideas of a citizen of great intelligence and experience with respect to our commerce. His remarks, contained in a paper herewith enclosed, afford a valuable elucidation of the subject. They will suggest at the same time, some explanatory precautions worthy of attention, particularly in the case of articles, which, paying no duty on importation into the United States, do not fall under the regulation of drawbacks; and in the case of securing by bond, instead of actually paying the duties

allowed to be drawn back. It appears by the observations in your letter of January 3d, that the bond was understood, as it surely ought to be, equivalent to actual payment. But this is a point so material, that it cannot be too explicitly guarded against the misinterpretation of interested cruisers, and the ignorance or perverseness of inferior courts.

Third. The necessity of the change required in the third article, in order to secure an indirect, as well as a direct trade to the British East Indies, will be fully explained by the observations which have been obtained from several of our best informed citizens on that subject, and which are herewith enclosed.

As this latitude of intercourse was stipulated by the 13th article of the treaty of 1794, as judicially expounded by British superior courts; as it was enjoyed by the United States prior to that epoch, and has been always enjoyed, both before and since, by other friendly nations; and as there is reason to believe that the British government has been at all times ready, since the article expired, to renew it in its original form, it may justly be expected that the inserted innovation will not be insisted on. Should the expectation fail, the course preferred is to drop the article altogether, leaving the trade on the general footing of the most favoured nation, or even trusting to the interest of Great Britain for such regulations as may correspond with that of the United States.

Should the negotiation take up the East India article of the treaty of 1794, you will find several amendments suggested in the extracts above referred to, some of which may be attempted with the greater chance of success, as they are harmless, if not favourable to the British system. To these suggestions may be added, a privilege to American vessels of touching at the Cape of Good Hope. The objection to such a stipulation, under the present defeasible title of Great Britain to the Cape, may be obviated by a descriptive provision, not necessarily applicable to it, in the event of its restitution by a treaty of peace, but embracing it, in case the British title should be established by that event. It may be agreed "that vessels of the United States may touch for refreshment at all the ports and places in the possession of Great Britain on or in the African or Asiatick seas."



Fourth. Without a provision, or a reservation, as to the claims of indemnity, an abandonment of them may be inferred from a treaty, as being a final settlement of existing controversies. It cannot be presumed that a precaution against such an inference, in any mode that may be most effectual, can be opposed or complained of: on the contrary, it excites just surprise, that so much resistance should be made to indemnifications supported by the clearest rules of right, and by a precedent in a former treaty between the two countries, from which so many other articles have been copied. The only colourable plea for refusing the desired provision flows from a presumption, not only that the British courts are disposed, but that they are competent, to the purpose of complete redress. Not to repeat observations heretofore made on this subject, an unanswerable one is suggested by the clause in the                    article of the treaty, annulling the principle, or rather the pretence, that vessels without contraband of war on board, returning from a port to which they had carried articles of that sort, were subject to capture and condemnation. Previous even to this recognition, it had been settled as the law of nations, by the British high court of admiralty, that vessels so circumstanced were exempt from interruption. Yet a British order of August, 1803, expressly declares them to be lawful prizes; and it is well known, that a number of American vessels have been seized and condemned under that order. Here then is a class of wrongs undeniably entitled to redress, and which neither can, nor ever could possibly be redressed in the ordinary course; it being an avowed rule with the prize courts, to follow such orders of the government, as either expounding or superseding the laws of nations. Even cases not finally decided would probably be considered as falling under the rule existing at the time of the capture, and consequently be added to this catalogue of acknowledged, but unredressed injuries.

Fifth. Articles 18 and 19. An effect of these articles is to secure to British cruisers and their prizes a treatment in American ports more favourable than will be permitted to those of an enemy; with a saving of contrary stipulations already made, and a prohibition of any such in future. As none of our treaties with the belligerent nations (France excepted) stipulate to their cruisers an

equality in this respect, and as there are parties to the war, with whom we have no treaties, it follows that a discrimination is made, in the midst of war, between the belligerent nations, which it will not be in the power of the United States to redress.

Weighty considerations would dissuade from such a deviation from a strict equality towards belligerent nations, if stipulated at a time least liable to objection. But it would be impossible to justify a stipulation, in the midst of war, substituting for an existing equality an advantage to one of the belligerent parties over its adversaries, and that too without any compensation to the neutral, shielding its motive from the appearance of mere partiality. Hitherto the United States have avoided, as much as possible, such embarrassments; and with this view have gratuitously extended to all belligerents the privileges stipulated to any of them. Great Britain has had the benefit of this scrupulous policy. She can, therefore, with the less reason, expect it to be relinquished for her benefit.

The last paragraph of the 19th article establishes a just principle as to the responsibility of a neutral nation, whose territory has been violated by captures within its limits; but by extending the principle to the two miles added to our jurisdiction by the 12th article, qualified as that addition is, it is made peculiarly important that an amendment should take place.

Passing by the failure of a reciprocity, either in the terms or the probable operation of the responsibility, the United States seemed to be bound to claim from the enemies of Great Britain redress for a hostile act, which such enemies may not have renounced their right to commit within the given space; making thus the United States liable to the one party, without a correspondent liability to them in the other party; and at the same time entitling Great Britain to redress for acts committed by her enemies, which she has reserved to herself a right to commit against them.

Should all the other belligerent nations, contrary to probability, concur in the addition of two miles to our jurisdiction, this construction would still be applicable to their armed ships, those unarmed alone being within the additional immunity against British cruisers, and the armed, as well as the unarmed ships of Great Britain, being ex-

pressly within the additional responsibility of the United States.

Sixth. No treaty can be sanctioned by the United States under the alternative presented by the declaratory note on the subject of the French decree of November 21. It is hoped that the occasion which produced it will have vanished, and that it will not be renewed in connexion with a future signature on the part of Great Britain. The utmost allowable in such a case would be a candid declaration that in signing or ratifying the treaty, it was understood on the part of Great Britain, that nothing therein contained would be a bar to any measures which, if no such treaty existed, would be lawful as a retaliation against the measures of an enemy. And with such a declaration it would be proper, on the part of the United States, to combine an equivalent protest against its being understood that either the treaty or the British declaration would derogate from any rights or immunities against the effect of such retaliating measures, which would lawfully appertain to them, as a neutral nation, in case no such treaty or declaration existed.

Having given this view of the alterations which are to be held essential, I proceed to notice such others as, though not included in the ultimatum, are to be regarded as more or less deserving your best exertions. This will be most conveniently done by a review of the several articles in their numerical order.

The 2d, 4th, and 5th, all relate to the trade and navigation between the two countries. The two first make no change in the stipulations of the treaty of 1794. The last has changed, and much for the better, the provisions of that treaty on the subject of tonnage and navigation.

Two important questions, however, enter into an estimate of these articles.

The first is, whether they are to be understood as a bar to any regulations, such as navigation acts, which would merely establish a reciprocity with British regulations. From the construction which seems to have been always put on the same stipulations in the treaty of 1794, it is concluded that no such bar could be created, and consequently that the articles are in that respect unexceptionable. It may be well, nevertheless, to ascertain that the subject is viewed in this light by the British government.

The second question is, whether the parties be, or be not mutually restrained from laying *duties*, as well as prohibitions, unfavourably discriminating between articles exported to them and like articles exported to other nations.

According to the construction put by the United States on the same clauses in the treaty of 1794, the mutual restraint was applicable to discriminations of both kinds. The British discriminating duties on exports, introduced under the name of convoy duties, and since continued and augmented under other names, were accordingly combated, during the existence of the treaty, as infractions of its text. The British government, however, never yielded to our construction, either in discussion or in practice. And it appears, from what passed in your negotiations on this subject, that the construction which is to prevail admits discriminating duties on exports.

In this point of view, the stipulation merits very serious attention. It cannot be regarded as either reciprocal or fair in principle, or as just and friendly in practice.

In the case of prohibitions, where both governments are on an equal footing, because it is understood that both have the authority to impose them, neither is left at liberty to exercise the authority.

In the case of duties, where the British government possesses the authority to impose them, but where it is well known that the authority is withheld from the government of the United States by their constitution, the articles are silent, and of course the British government is left free to impose discriminating duties on their exports, whilst no such duties can be imposed by that of the United States. How will it be in practice? Stating the exports of Great Britain to the United States at six millions sterling only, the present duty of 4 per cent. levies a tax on the United States, amounting to two hundred and forty thousand pounds, or one million, sixty-five thousand six hundred dollars; and there is nothing, whilst the war in Europe checks competition there, and whilst obvious causes must for a long time enfeeble it here, that can secure us against further augmentations of the tribute.

Even under a regulation placing the United States on the footing of the most favoured nation, it appears that the British government would draw into its treasury, from

our consumption, three-eighths of the revenue now paid into it by the United States. Such a footing, however, would be material, as giving the United States the benefit of the check accruing from the more manufacturing state of the European nations. But to be deprived of that check by the want of an article, putting us on the footing of the nations most favoured by Great Britain, and at the same time deprived of our own checks by clauses putting Great Britain on the commercial footing of the nations most favoured by the United States, would in effect confirm a foreign authority to tax the people of the United States, without the chance of reciprocity or redress.

The British duty on exports to the United States has another effect, not entirely to be disregarded. It proportionally augments the price of British manufactures re-exported from the United States to other markets, and so far promotes a direct supply from Great Britain by her own merchants and ships. Should this not be the effect of her regulations as now framed, there is nothing that would forbid a change of them, having that for its object.

On these considerations it is enjoined upon you by the President to press, in the strongest terms, such an explanation or amendment of this part of the treaty, as will, if possible, restrain Great Britain altogether from taxing exports to the United States, or at least place them on the footing of the most favoured nation; or if neither be attainable, such a change in the instrument in other respects, as will reserve to the United States the right to discriminate between Great Britain and other nations in their *prohibition* of exports, the only discrimination in the case of exports permitted by the constitution. The unwillingness of the President to risk an entire failure of the projected accommodation with Great Britain restrains him from making an amendment of this part of the treaty a *sine qua non*; but he considers it so reasonable, and so much called for by the opinions and feelings of this country, that he is equally anxious and confident with respect to a compliance on the part of the British government.

Article 6. This article, as taking the case of the West India trade out of any general stipulation of privileges granted to other nations, may prove convenient, by disencumbering measures, which may be taken against the Bri-



tish monopoly, from questions of which that stipulation might otherwise be susceptible.

Article 7. Though to remain, if desired, would be more reasonable without the last paragraph, or with a right only to accept places and periods, at which the trade of the other party may not be permitted.

Article 8. This article is framed with more accuracy than the 17th, on the same subject, in the treaty of 1794, and is improved by the additional paragraph at the close of it. But as such general stipulations have not been found of much avail in practice, and as it continues to be the wish of the President to avoid, especially at the present juncture, unnecessary confirmations of the principle, that a neutral flag does not protect enemies' property, an omission of the article is much preferred, unless it be so varied as to be free from this objection. This may easily be done by substituting a general stipulation, "that in all cases where vessels shall be captured or detained for any lawful cause, they shall be brought to the nearest or most convenient port; and such part only of the articles on board as are confiscable by the law of nations, shall be made prize; and the vessel, unless by that law subject also to confiscation, shall be at liberty to proceed, &c.

There ought to be the less hesitation on the British side in making this change, as the article in its present form departs from that of 1794; and there is the more reason on our side for requiring the change, as the addition of "for other lawful cause," after specifying the two cases of enemies' property and contraband of war, is probably valued by Great Britain as supporting her doctrine, and impairing ours, with respect to colonial trade. The only case other than those specified, to which the right of capture is applicable, is that of blockades, which might have been as easily specified, as provided for by such a residuary phrase; and the pretext for appropriating this phrase to the case of the colonial trade would be strengthened by the specific provision, in a subsequent article, for the case of blockades.

It cannot be alleged that the specification of the two cases of enemies' property and contraband of war is necessary to prevent uncertainty and controversy, the United States having sufficiently manifested their acquiescence in these causes of capture. If there be a source of uncer-



tainty and controversy, it is in the expressions "other lawful cause," and "otherwise confiscable," and this source could not be increased by the change here proposed.

Article 9. This article is an improvement of that on the same subject, in the treaty of 1794; inasmuch as it excepts from the list of contraband tar and pitch, when not bound to a port of naval equipment; and when so bound, substitutes pre-emption for forfeiture. It has an advantage also, in the clause renouncing the principle of the British order of June, 1803, against vessels returning from places to which they had carried contraband of war.

On the other hand, it would not have been unreasonable to expect that the British government would, in a treaty with the United States, have insisted on no stipulation less favourable than her stipulation on the same subject with Russia; especially as the naval stores exported from the United States are equally the growth and produce of the country.

Consistency, again, as well as reason, evidently required that the exception in favour of tar and pitch should have been extended to every species of naval stores, equally applicable to other uses than those of war, and destined to places other than those of naval equipment.

Lastly, it is observable, that even turpentine and rosin are not included with tar and pitch in the favourable exceptions, though of a character so kindred as to leave no pretext for the distinction.

Neither has the British government the slightest ground for regarding as a concession the stipulated immunity of a vessel, which, on her outward voyage, had carried contraband to a hostile port. The principle asserted by her order on that subject is an innovation against the clearest right of neutrals, as recognised and enforced even by British courts. The very language of the article implies that this is a *pretence* for the innovation.

These considerations urge a re-modification of the article; and they are strengthened by the great dislike of the President to formal recognitions, at this particular moment, of principles combated by some, and unfavourable to all neutral nations. So ineligible, indeed, in his view, is any step tending in the least to retard the progress of these principles, that naval stores are to be left on a sti-

pulated list of contraband, in the event, only, of an inflexible refusal of the British government to omit them ; nor are they to be retained, in any event, without an addition or explanation that will except turpentine and rosin, as well as tar and pitch, there being no plausible motive for the distinction ; and the quantity and value of the two former exported from the United States being found, on inquiry, to make them of equal importance with the two latter. It can scarcely be supposed that the British government will insist on this unwarrantable distinction. It is not indeed improbable, that it has been a mere inadvertence. Such an inference is favoured by the circumstance of your speaking, in your comment on this article, of tar and *turpentine* as being the two exceptions. Whatever the true state of the case may be, it is thought better to omit a list of contraband altogether, than not to include in the exception from it turpentine and rosin, as well as tar and pitch.

Article 10. The abuse of blockades has been so extravagant, and has produced so much vexation and injury to the fair commerce of the United States, that as on one hand it is of great importance to find a remedy ; so, on the other, it is the more necessary that the remedy should be such as not itself to admit of abuse. The considerations which reconciled you to the tenour of the article, as at least a constructive approach to a solid provision for the case, are allowed the weight which they justly merit ; whilst the course which your discussions took are a proof of the exertions which were used to give the article a more satisfactory form.

The failure, however, of the British commissioners to substantiate a favourable construction of the article, by a proper explanatory letter addressed to you, with their reasons for refusing to insert in the treaty a definition of blockade, justify apprehensions that the vague terms which alone were permitted to compose the article, would be more likely to be turned against our object, by courts and cruisers, and perhaps by a less liberal cabinet, than to receive in practice the more favourable construction which candour anticipated.

The British doctrine of blockades, exemplified by practice, is different from that of all other nations, as well as from the reason and nature of that operation of war. The

mode of notifying a blockade by proclamations and diplomatic communications, of what too is to be done, rather than of what, in fact, had been done, is more particularly the evil which is to be corrected. Against these nominal blockades the article does not sufficiently close the door. The preamble itself, which refers to distance of situation as a *frequent* cause of not knowing that a blockade exists, though in one view giving the United States the advantage of a favourable presumption, in another view carries an admission unfavourable to our principle, which rests not on the distance of situation, but on the nature of the case, and which consequently rejects in *all* cases the legal sufficiency of notifications in the British mode. The preamble is liable to the remark also, that it separates our cause from the common one of neutral nations in a less distant situation, and that the principle of it may even be pleaded against us in the case of blockades in the West Indies. These considerations would have been outweighed by the advantage of establishing a satisfactory rule on this subject in favour of our trade ; but, without such a provision in the article, it is thought less advisable to retain it, than to trust to the law of blockades as laid down by all writers of authority, as supported by all treaties which define it, and more especially as recognised and communicated to the United States by the British government, through its minister here, in last ; not to mention the influence which the course of events and the sentiments of the maritime nations in friendship with Great Britain may have in producing a reform on this subject.

The last paragraph, though subjecting persons in civil as well as military service of an enemy to capture in our vessels, may prove a valuable safeguard to ordinary passengers and mariners against the wrongs which they now frequently experience, and which affect the vessel as well as themselves.

Article 12. It is much regretted that a provision could not be obtained against the practice of British cruisers in hovering and taking stations for the purpose of surprising the trade going in and out of our harbours ; a practice which the British government felt to be so injurious to the dignity and rights of that nation, at periods when it was neutral. An addition of two miles, nevertheless, to our maritime jurisdiction, so far as to protect neutral and

other unarmed vessels, notwithstanding its want of any thing like a due reciprocity, is not without its value. This value will at the same time be very materially impaired, if the stipulation cannot be liberated from the clause requiring the consent of the other belligerent nations, as necessary to exempt their vessels from search and seizure. None of the other belligerent nations have, in fact, unarmed vessels engaged in our trade, nor are they likely to have any during the war; and these alone could derive advantage from their consent, their armed vessels being expressly excepted. There can be no motive with them, therefore, to agree to the regulation. They would rather be tempted to embarrass it, with a view to continue, as much as possible, vexations which lessen the mutual good will of the parties. And as, by their not agreeing to the regulation, the right is reserved to British cruisers to examine all vessels for the purpose of ascertaining whether they may not belong to a belligerent, the disturbance of our trade might be little diminished within the additional two miles. Besides the mere interruption of a search concerning the vessel, it is hardly to be expected from the general spirit of cruisers, that the search will not be extended to the cargo; and if the latter should be thus or otherwise found or suspected to be of a confiscable sort, that the temptation to capture would be resisted, the less so perhaps, as the increased distance from the shore, and the increased difficulty of proof, would favour the chance of condemnation, or at least countenance courts in their propensity to refuse damages and costs to the claimants.

To secure the advantage promised by this article, the right of search ought to be suppressed altogether, the additional space enjoying in this respect the same immunity as is allowed to the marine league. To this object the President wishes your endeavours to be directed.

I reserve for the 17th article another view of the subject, which will claim your attention.

Article 13. The general provision here copied from the treaty of 1794, though not hitherto found of much effect in controlling the licentiousness of cruisers, and very different from the special rules in favour of neutrals, contained in most treaties which touch the subject of search, enters very properly into a comprehensive arrangement between two friendly nations. The introductory sentence

alone, which consists of new matter, invites particular notice. The expressions, "*as the course of the war may possibly permit,*" and "*observing, as much as possible,* the acknowledged principles and rules of the law of nations," however favourably intended by the British negotiators, will not improbably be construed into a relaxation of the neutral right in favour of belligerent pleas, drawn from circumstances of which belligerent agents will be the judges. The expressions may easily be so varied as to refer simply to the law of nations for the rule, and to the friendship of the parties for the spirit, according to which the search is to be conducted. If such an amendment should be deliberately rejected by the British government, it will be a proof of a lurking danger, that will recommend an omission of what relates to the subject of search, in preference to retaining it.

Articles 14, 15, and 16, call for no particular observation.

Article 17. So much of this article as relates to the admission of ships of war, would be advantageously exchanged for a general stipulation, allowing on this subject the privilege granted to the most favoured nation. It would then be in the power of the United States to limit the number admissible at one time, whereas such an indefinite admission of British ships imposes on our neutrality a like indulgence to the fleets of other nations. Such an alteration of the article is the more reasonable and important, as there will be little reciprocity in its operation; the United States having but few ships, and the inconveniences from British ships in our ports being much greater than those from our ships in British ports.

The engagement to treat officers of the navy with respect, is not only too indefinite to be enforced by penal regulations, but implies a reproachful defect of hospitality and civility. In this light it was viewed during the discussions of the treaty of 1794. The clause probably grew then out of recent complaints, well or ill founded, of disrespectful conduct on some occasion towards British officers. If latter occurrences were to be consulted, it would be a more apt provision now to stipulate for the punishment of naval commanders making insulting and ungrateful returns for the kindness and respect shown them in our



ports and towns. The President makes almost a point of excluding this part of the article.

Articles 18 and 19, already noticed.

Article 20. Considering the great number of British merchants residing in the United States, with the great means of influence possessed by them, and the very few American merchants who reside in Great Britain, the inconvenience which may be incident to such a protracted right to remain during a state of war, is evidently much greater on our side than on the other. In this view the stipulation is very unequal. The liberal spirit of it is, at the same time, highly commendable. It were only to be wished that the readiness on one side to make sacrifices of this sort to a spirit, which ought to pervade every part of a treaty between the parties, had been less met by an apparent disposition on the other side rather to extort from, than to emulate it.

Article 21. Not agreeable, but not to be an insuperable obstacle.

Article 22, is altogether proper.

Article 23. This article, granting the privileges of the most favoured nation, seems to require explanation, if not alteration. The terms, “shall *continue* to be on the footing of the most favoured nation,” imply, that the parties are now on that footing. To look no further, the discrimination between exports from Great Britain to Europe and to the United States is a proof that the fact is otherwise.

But may not the expression be construed into a barrier against laws on the part of the United States, establishing a reciprocity with the British navigation act and West India regulations? It might be impolitick to extend such laws to all other nations, as it would be unjust to extend them to such as had not adopted the restrictive system of Great Britain. And yet a discrimination might be arraigned, as not *continuing* Great Britain on the same footing with other nations.

The object of this article, so far as it is a legitimate one, would be sufficiently provided for by a mutual stipulation of the privileges in trade and navigation, enjoyed by the most favoured nation; and such stipulations moreover ought in justice to import or imply, that where privileges are granted to a third nation, in consideration of privileges



received, the privileges cannot be claimed under the stipulation without a return of the same or of equivalent privileges. The condition is certainly not without difficulties in the execution, but it avoids a greater evil. Should Spain or France open her colonies to our ships and productions, on our granting certain privileges to her trade, these could not be claimed or expected by the most friendly nation who would not pay the price of them.

Articles 24 and 25 are entirely proper.

Article 26. It is particularly desirable that the duration of the treaty should be abridged to the term limited in the instructions of the 5th January, 1804.

Having taken this view of the subject with reference to a formal treaty under new modifications, it is necessary to recollect that you were authorized by my letter of February 3 to enter into informal arrangements, and that, before the receipt of my letter of March 18, a plan of that sort may have been definitively settled. In such a state of things it is impossible to do better than to leave your own judgments, aided by a knowledge of circumstances unknown here, and by the sentiments of the President now communicated, to decide how far it may be eligible, or otherwise, to attempt to supersede that informal arrangement by opening the negotiation herein contemplated.

Should, on another hand, the negotiation be found in the state authorized by my letter of March 18th, that is to say, matured provisionally only, and consequently leaving the door open for the experiment now provided for, it must equally remain with your own judgments, guided by a comparison of the terms of the provisional arrangement with the present instructions, to decide how far it may be best to close the former, or to pursue the objects of the latter, with a view, in case of failure, to return to, and close the former.

Whatever may be the course recommended by the actual state of things, you will feel the propriety of smoothing the way for it by the explanations which will best satisfy the British government, that the several steps taken on the part of the United States have proceeded from their solicitude to find some ground, on which the difficulties and differences existing between the two countries might be amicably and permanently terminated. You will be equally aware of the importance of transmitting hither, as early

and as circumstantial information of your proceedings and prospects, as opportunities will permit; and will particularly keep in mind the earnest desire of the President to possess, in due time, every material, preparatory to the communications relating to our affairs with Great Britain, which will be so anxiously expected, on the meeting of Congress, the first Monday in December.

Such are the instructions and explanations under which the task is consigned to you, of renewing the discussions with the British government. The President is well assured that it will be executed with all the advantage which talents and patriotism can contribute; and he is unwilling to believe that that government will finally prefer to the reasonable terms proposed, the serious state of things which will be left by a miscarriage of this ulterior appeal to the motives which ought to govern a just and friendly nation. As it is possible, however, that this favourable calculation may not be verified, and it will necessarily remain to be decided, whether such a state of things can be obviated by any additional proposition, not beyond the justifiable limits of concession, the President has taken the case into his serious deliberation, and has concluded to authorize you, in the event of a rejection of every arrangement already authorized, but in that event only, to admit an article to the following effect:

“It is agreed, that after the term of            months computed from the exchange of ratifications, and during a war in which either of the parties may be engaged, neither of them will permit any seaman, not being its own citizen or subject, and being a citizen or subject of the other party, who shall not have been, for two years at least prior to that date, constantly and voluntarily in the service, or within the jurisdiction of the parties respectively, to enter or be employed on board any of its vessels navigating the high seas: and proper regulations, enforced by adequate penalties, shall be mutually established for distinguishing the seamen of the parties respectively, and for giving full effect to this stipulation.”

You will observe, that the proposition is so framed as not to comprehend among British seamen those who have been made citizens of the United States, and who must necessarily be so regarded within their jurisdiction, and under their flag. This modification of the article cannot

produce any real objection on the part of Great Britain. 1st. Because the legal pre-requisites to naturalization in the United States imply, what is sufficiently known, that the number of seamen, actually naturalized or likely to be so, is too small to claim attention in any arrangement on this subject.

2d. Because the right of British subjects to naturalize themselves in a foreign trade and navigation, as laid down by the judicial authority of Great Britain, ought to restrain the government from making a difficulty on this point.\*

If an attempt should be made to bind the United States to deliver up the seamen to Great Britain, instead of excluding them merely from their own service, you are to say at once, that it would be inconsistent with our principles, and cannot be acceded to.

It will occur to you that the period of two years has been chosen, in allusion to the period established by Great Britain, as sufficiently incorporating alien, with British seamen. Her own example at least must have weight with her, and the implied appeal to it may be of use in shielding the measures against public prejudices, to which the government may not wish to expose itself.

If the British government be not predetermined against a friendly adjustment, it is confidently presumed that the concession proposed will not only overcome all obstacles to your success on the essential points, but may be turned to account in promoting the amendment of the other articles.

Should the concession, however, contrary to all expectation, not succeed, even as to the essential objects, the course prescribed by prudence will be to signify your purpose of transmitting the result to your government, avoiding carefully any language or appearance of hostile anticipations; and receiving and transmitting, at the same time, any overtures which may be made on the other side, with a view to bring about accommodation. As long as negotiation can be honourably protracted, it is a resource to be preferred, under existing circumstances, to the peremp-

\* See Durnford and East's Reports, *Wilson versus Marriatt*; and the same case in *Bosanquet and Puller's Reports*.

tory alternative of improper concessions or inevitable collisions.

The last suggestion I have to make to you is, that, in case of great difficulties in re-adjusting the multiplied provisions embraced by the treaty of December, particularly those relating to commerce, it may be advisable to simplify the transaction by confining it to the few essential objects, or by not adding more than a few others of least difficulty and most importance. A general article may suffice for the rest, giving reciprocally, in regard to trade and navigation, armed ships and prizes the privileges of the most favoured nation; and leaving for more leisurely and detailed provision whatever further may conduce to the mutual interests, and correspond with the friendly dispositions of the parties. A general stipulation of this sort, applied to the subject of commerce, would have the advantage to the United States of abolishing and preventing British discriminations on exports, and to Great Britain the like advantage with respect to American discriminations on imports.

*From Mr. Madison to Messrs. Monroe and Pinkney. Department of State, July 30, 1807.*

GENTLEMEN,—Your letter of April 25th, enclosing the British project of a convention of limits, and your proposed amendments, has been duly received. The following observations explain the terms on which the President authorizes you to close and sign the instrument.

1st. The modification of the 5th article, (noted as one which the British commissioners would have agreed to) may be admitted in case that proposed by you to them be not attainable. But it is much to be wished and pressed, though not made an ultimatum, that the proviso to both should be omitted. This is in no view whatever necessary, and can have little other effect than as an offensive intimation to Spain, that our claims extend to the Pacifick ocean. However reasonable such claims may be, compared with those of others, it is impolitick, especially at the present moment, to strengthen Spanish jealousies of the United States, which it is probably an object with Great Britain to excite by the clause in question.

2d. The privileges of British trade and intercourse with the Indians, allowed by existing stipulations, are not to be extended to Indians dwelling within the limits of the United States, as determined by the treaty of peace.

The motives for excluding foreign traders from the territories of the United States, westward of the Mississippi, have been heretofore stated to you. These motives gain strength daily. It is manifest also, that the proposition on the part of Great Britain fails essentially in the point of real and fair reciprocity: first, as it excepts the possessions of the Hudson's Bay company, without any equivalent exception on our side of the boundary: secondly, as the use of the privilege by our traders on the British side of the boundary is known to be attended with danger and secret obstructions, to which British traders on our side of the boundary are in no degree exposed: thirdly, as all chance of competition with British traders on the British side would be completely frustrated by the disparity of duties and of prices, under which the American and British traders would respectively carry their merchandise to the Indian market on that side. The British government now complains of the disadvantage resulting to their Indian traders on the eastern side of the Mississippi from an excess of duty amounting to about six per cent. In the Indian trade within the British territory, the difference against our traders is equal to the difference between the duties imposed in the United States and those imposed in Canada, or rather, as no duties are probably imposed in Canada, equal to the full amount imposed in the United States, that is, to 15 or 20 per cent. It is enough to be under this inequality, as it relates to the existing stipulation. To extend it, as proposed, is more than can be fairly expected. The bargain would be still far worse on our side, if the British proposals contemplate a free access to the waters westward of the Mississippi, with goods free of duty for the Indians of Louisiana.

Having already transmitted to Mr. Monroe sundry documents, throwing light on our relations with the Indians in the north west quarter, I add a few others, not a little curious, as well as not uninteresting.

3d. Access by land or inland navigation from the British territories, through the territory of the United States, to the river Mississippi, is not to be allowed to British sub-



jects with their goods or effects, unless such articles shall have paid all the duties, and be within all the custom-house regulations, applicable to goods and effects of citizens of the United States. An access through the territory of the United States to the waters running into the western side of the Mississippi, is under no modification whatever to be stipulated to British subjects.

There can be no good reason with Great Britain for wishing an access to the Mississippi for goods free of duty, because the river can never be a highway to any other market than the consumption of our citizens, and as this cannot be attained without a previous payment of the usual duties, it must be the same thing, whether the duties be paid on, or after entering the limits of the United States; or, rather, the only difference would be in the greater facility of evading the duties in the latter than in the former case; a facility, which cannot be supposed to be approved by Great Britain, or admissible by the United States.

4th. It may be agreed that the *ad valorem* duties, now payable on goods imported into the United States from the neighbouring territories of Great Britain, shall be regulated according to the value thereof, estimated in the same manner as if directly imported from beyond sea, and that licenses to Indian traders, and passes for their canoes and carriages, shall be freely granted; but that the British traders shall, in all respects, be subject to the restrictions and precautions with respect to the articles to be supplied to the Indians, as are imposed on citizens of the United States engaged in the same trade.

I have only to express the President's approbation of the idea of keeping open for future decision our right to the island of Grand Menan, and to suggest, as a desirable addition to the 8th article, a clause providing, "that in the mean time British vessels shall not be restrained from carrying plaster, &c. to any ports of the United States." It appears that a disposition exists to compel the British vessels to trade to the more distant ports of the United States, instead of resorting to the nearer ones, whence the plaster, &c. is now conveyed by vessels of the United States. For the spirit and outrages which prevail in that quarter, I refer to the communications from the collector



of Passamaquoddy, herewith enclosed. Affidavits of the facts stated by the collector have also been transmitted by him.

I have the honour to be, &c.

JAMES MADISON.

*London, July 25, 1806.*

SIR,—You will have been surprised at not hearing from us sooner, on the business confided to us, under the commission with which we are honoured by the President. The delay proceeded from a desire to give you some satisfactory information of our progress in it, which it was not in our power to do. It happened unfortunately, just about the time of Mr. Pinkney's arrival, on the 24th ultimo, that Mr. Fox was taken ill of a dropsical complaint, from which he has not yet recovered, and probably never will. That circumstance opposed to us a serious obstacle, which it was difficult to surmount, even in the first stage. As Mr. Fox was the official organ of the government, we could not approach it in that mode through any other channel; and as he and his friends are believed to be favourably disposed to the objects of our mission, and are strong in the cabinet, it seemed to be hazardous to make any experiment for that purpose which might have a tendency to irritate them. Thus we were kept for some time at a stand. Every necessary step was taken with the department of foreign affairs, without making any advance. At length, through the good offices of lord Holland, to whom, as the relative of Mr. Fox we presumed we might apply, without giving offence to him or his friends, we obtained our recognition of the king. And we trust now that the door is open, that we shall soon be able to proceed in the business, on which we have to treat, with some suitable organ of the government. We persuade ourselves, if Mr. Fox should continue unable to act, that some other person will be appointed to meet us in his stead. We have the pleasure to enclose you a copy of the several notes which have passed in this introductory stage of the business.

Our audience of the king took place on the 21st inst. The reception was quite a favourable one. To the assurances which we gave of the friendly policy of the United

States towards Great Britain, as particularly exemplified by the present mission, his majesty, in return, expressed himself to be highly satisfied with the proof which that measure gave of that disposition in their government, as that Mr. Pinkney had been selected from among their citizens to be employed in it. His other remarks, though not applicable to the topick of existing differences, were nevertheless of a conciliatory and friendly character.

We beg you to be assured, that we shall continue to exert our best efforts to accomplish the important objects of our mission. Of the actual disposition of this government on that subject, and of the prospect of a satisfactory adjustment, it is not in our power to speak from any recent occurrence. The general view, as founded on the sentiments which have been expressed by those about the government, with whom we have conferred, is favourable. We cannot but believe, that the delay to which we were subjected in obtaining our recognition by the king, ought to be attributed to Mr. Fox's indisposition alone. It is, however, proper to mention, that a negotiation with France is still depending, and that many entertain the expectation, that it will terminate in peace. We are not aware that such an event is likely soon to happen, and we flatter ourselves, even in case it should, that the motive for preserving a good understanding with the United States, in the present situation of the world, is otherwise sufficiently strong with this government to induce it to accede to a fair and satisfactory adjustment of differences with them.

We have received your letter of May 30, and shall not fail to pay due attention to the instruction it communicates.

We have the honour to be, with great consideration and esteem, sir, your very obedient servants,

JAMES MONROE,  
WILLIAM PINKNEY.

*To Mr. Fox. Low Layton, June 21, 1806.*

MR. MONROE presents his compliments to Mr. Fox, and has the honour to inform him of the arrival of Mr. Pinkney at Liverpool, and to request that he will be so good as to give an order that his baggage and effects may be landed and brought to London. Mr. Monroe presumes

that Mr. Pinkney, being in a diplomatic character, will be permitted to proceed on his journey there without the sanction of a passport; should it be necessary, he requests that Mr. Fox will be so good as to send him one.

*From Mr. Fox. Stable Yard, June 22, 1806.*

Mr. Fox presents his compliments to Mr. Monroe, and will be very glad to see him here to-morrow at 12 o'clock.

Mr. Fox is very much obliged to Mr. Monroe for his note informing him of Mr. Pinkney's arrival. He imagines that no passport is necessary for that gentleman to proceed to London. The order respecting his baggage and effects shall immediately be expedited.

*To Mr. Fox. Low Layton, June 23, 1806.*

MR. MONROE presents his compliments to Mr. Fox, and regrets that he had not the pleasure of receiving his note of yesterday till so late an hour this day, as to render it impossible for him to comply with his obliging invitation. The hour appointed for him to call in Stable Yard had not only passed, but he concluded that before he could arrive in Downing street. Mr. Fox would have left it and gone to the house of commons. Mr. Monroe will be happy to wait on Mr. Fox at any other time which may be convenient to him.

Mr. Monroe expects Mr. Pinkney in town to-night. As soon as he arrives, he will have the pleasure to inform Mr. Fox of it, and to request the appointment of an hour when he may have the honour of presenting him to Mr. Fox.

*To Mr. Fox. Low Layton, June 25, 1806.*

MR. MONROE presents his compliments to Mr. Fox, and has the honour to inform him of the arrival of Mr. Pinkney in the character of a joint commissioner extraordinary and plenipotentiary from the United States to his Britannick majesty. Mr. Monroe requests that Mr. Fox will be so good as to appoint a time when he may have the

honour of presenting Mr. Pinkney to him. He will avail himself of the same opportunity to deliver to Mr. Fox a copy of their joint letters of credence.

*From Sir Francis Vincent. Stable Yard, June 27, 1806.*

DEAR SIR,—Mr. Fox has been, and indeed still continues so unwell with severe rheumatism, that it is not in his power as yet to fix a day to have the honour of seeing you and Mr. Pinkney, which I assure you he is very anxious and impatient to do; but as soon as he is able I shall have the honour of informing you. In the mean time Mr. Fox hopes you will have the goodness to excuse this unavoidable delay.

Mr. Fox requests that you will offer Mr. Pinkney his best compliments on his safe arrival. May I request that you would do me the honour to offer mine also?

Believe me, dear sir, your very faithful humble servant,  
F. VINCENT.

*To Sir Francis Vincent. Low Layton, June 27, 1806.*

DEAR SIR,—It is with extreme regret that I heard yesterday of the indisposition of Mr. Fox, and I beg you to be assured, that I would on no consideration whatever hasten our interview at the expense of his quiet. I shall explain the cause of the delay to Mr. Pinkney, who will, I am satisfied, unite with me in this sentiment. I sincerely hope that his recovery will be rapid, and that I shall soon have the pleasure of seeing him in good health. Accept my acknowledgment for the very obliging expressions contained in your favour of this date, and believe me to be, with great consideration and esteem, very truly, your most obedient servant,

JAMES MONROE.

*From Mr. Fox. Stable Yard, July 15.*

MR. FOX presents his compliments to Mr. Monroe, and begs to have the honour of seeing him here with Mr. Pinkney, at 3 o'clock to-day.

*From Sir Francis Vincent. Arlington Street, Tuesday Evening, July 15.*

MY DEAR SIR,—The king does not come to town till Monday, on which day you and Mr. Pinkney may certainly be presented to his majesty.

Yours ever, and most sincerely,

F. VINCENT.

James Monroe, Esq. &c. &c.

*From Lord Holland. Sunday Night, July 20.*

DEAR SIR,—Lord Howick, whom I have seen, will be very happy to be of any use to you, but is not the person who can officially present you, on producing your credentials. If you wish to settle the business through him, he will be ready to receive you any time before 12, at the admiralty. Since I saw him, I have written to lord Spencer, who is the regular person on such an occasion to supply my uncle's place, and though my letter went late this night, I hope his answer to it will find you as soon as this. I am sure if time allows, he will be happy to receive Mr. Pinkney and yourself, and present you in form to the king.

My uncle begged me to express his regret at having disappointed Mr. Pinkney and yourself, and feeling his health uncertain, was almost afraid of again fixing an hour; but as you will be in that part of the town, and his best hour is from four to five or thereabouts, perhaps Mr. Pinkney and you will be so good as to call about that time at Stable Yard.

Believe me, dear sir, ever your obliged,

HOLLAND.

P. S. If you settle to go to court with lord Spencer, have the goodness to inform lord Howick by a line, as he will otherwise wait for your commands, till past 12 o'clock.

James Monroe, Esq. &c. &c. &c.

*From Lord Spencer. St. James's Place, July 21, 1806.*

LORD SPENCER presents his compliments to Mr. Monroe, and has the honour to inform him, by desire of Mr. Fox, who is too much indisposed to have it in his power to receive him and Mr. Pinkney this morning, that the king will be at the queen's house to-day, at two o'clock, when, if it will be convenient for Mr. Monroe and Mr. Pinkney to attend, lord Spencer will be very happy to have the honour of introducing Mr. Pinkney to his majesty, for the purpose of delivering his credentials from the United States; and if Mr. Monroe and Mr. Pinkney are desirous of seeing lord Spencer before they go to the queen's house, he will be at his office at Whitehall, at one o'clock, where, if they would have the goodness to call, he will have the honour of receiving them.

*To Lord Spencer. Portland Place, July 21, 1806.*

MR. MONROE presents his compliments to lord Spencer, and begs to inform his lordship, that Mr. Pinkney and himself will have the honour to wait on him at Whitehall, at one o'clock, at which hour his lordship has been so good as to intimate, that he will be prepared to receive them. Mr. Monroe very much regrets the indisposition of Mr. Fox, but Mr. Pinkney and himself will avail themselves with pleasure of his lordship's obliging offer, to do them the honour of presenting them to his majesty to-day at two o'clock. Although Mr. Monroe is already an accredited minister at this court, yet as he is invested with a new character, being included in the special mission from the United States, he presumes that it will be proper, that he should also have the honour of being presented to his majesty as a party to it. Mr. Pinkney and Mr. Monroe will have the the honour of delivering to lord Spencer, a copy of their joint letter of credence at one o'clock.

*To Lord Howick. Portland Place, July 21, 1806.*

MR. MONROE presents his compliments to lord Howick, and begs to assure his lordship, that he is very sensible of



his obliging attention in offering, as he is just informed by lord Holland, his good offices to procure Mr. Pinkney and himself the honour of being presented to his majesty to-day, which has been hitherto delayed by the much lamented indisposition of Mr. Fox. Mr. Monroe has the honour to inform lord Howick, that he has just received a letter from lord Spencer, intimating that his lordship will do Mr. Pinkney and himself the honour of presenting them to his majesty to-day. He hastens to give lord Howick this information, in consequence of a suggestion from lord Holland, that lord Howick would be so good as to remain at home till twelve o'clock, for the purpose of receiving them.

*From Sir Francis Vincent. Stable Yard, July 21, 1806.*

MY DEAR SIR,—I am very sorry to be under the necessity of asking you and Mr. Pinkney, whether you should consider it as of great inconvenience to postpone your presentation to the king till his next coming to town, which will be early next week, as it has not yet been in Mr. Fox's power to announce it officially to his majesty. In the mean time every communication from you and Mr. Pinkney will meet with the same attention as if this ceremony had been gone through; an attention which it will always be the pride of the foreign office to show to the ministers of the United States, our half countrymen.

And from this delay no detriment will arise to the great cause, as I fear some days must yet elapse before Mr. Fox will be well enough to discuss business; he is, however, better. Pray write me a line in answer to this. I have not written to Mr. Pinkney: will you make my excuse to him, as I am anxious for your getting this soon.

Believe me, dear sir, most truly yours,

F. VINCENT.

James Monroe, Esq. &c. &c. &c.

NOTE. On Friday the 11th, sir Francis Vincent promised us an interview with Mr. Fox on the 15th, which Mr. Fox invited by his note of that date. We attended at Mr. Fox's house according to appointment, but did not see him, his health not permitting it. On the evening of the

same day, sir Francis Vincent wrote the note which bears his name of that date. The arrangement with lord Holland was made on the 20th, for which the circumstance of our dining with him furnished a favourable opportunity. Sir Francis Vincent's note of the 21st was written before he was acquainted with that arrangement.

(Owing to the haste in despatching the original, the copy of the correspondence annexed to it was not so full as that accompanying the duplicate.)

No. 2.

*London, August 11, 1806.*

SIR,—It was intimated to us, by sir Francis Vincent, soon after the date of our last, that, as the state of Mr. Fox's health was not likely soon to permit him to attend to us, or the subjects of our mission, lord Grenville would be asked to communicate with us in his stead; and sir Francis promised that he would endeavour, without loss of time, to arrange with lord Grenville to that effect.

On the first instant sir Francis informed us, by a note to Mr. Monroe, that lord Grenville had been applied to, and that he would fix an early day for our reception. Believing that we should not make the most profitable use of the opportunity, if we waited for a note from lord Grenville, we determined to write him immediately, and request him to appoint a time for receiving us. He accordingly appointed Monday the 4th, which, on account of an interfering engagement, not at first adverted to, was changed to the day following.

His lordship received us with great cordiality; but, as we had expected, was not prepared to enter into any formal consideration of the subjects embraced by our commission, which, as the letter of credence had been delivered to the king, and had not been seen by lord Grenville, we thought it advisable to submit to his perusal. He told us that he was at present able to say little more than that his majesty's government was earnestly desirous of giving the most prompt and effectual attention to what we had to propose, and of adjusting satisfactorily whatever was in any degree calculated to disturb the good understanding

which ought to subsist between us ; that he had always entertained and acted upon a sincere disposition to cultivate the most friendly connexion and intercourse with the United States ; and that he could say for his colleagues, that such was their disposition also : that we were aware that the delay we had hitherto experienced arose entirely from the illness of Mr. Fox, to whose department subjects of this description particularly belonged ; that he himself, having only recently returned to a situation of confidence in his majesty's councils, was, of course, but very imperfectly acquainted with those immediate transactions and discussions, which had a bearing upon the relations of the two countries ; that he could not, therefore, at this moment, undertake even to converse with us upon them, otherwise than very loosely and informally ; but that he should, notwithstanding, be glad to hear from us a statement of the principal points, which it was supposed our negotiation would involve. His lordship added, that, if Mr. Fox should unfortunately continue to be disqualified by indisposition, from attending personally to the affairs of our mission, it would be necessary to receive his majesty's pleasure, whether this important duty should be committed to some other of the secretaries of state, or to commissioners to be specially appointed to treat with us ; and that this would not be delayed beyond the actual necessity of the occasion.

The statement which his lordship invited was of course given with as much minuteness as was thought to be prudent ; and it drew from him several remarks, some of which, although not very interesting, it may be proper to state.

On the subject of the impressment of our seamen, he suggested doubts, (which we endeavoured to remove by suitable explanations) of the practicability of devising the means of discrimination between the seamen of the two countries, within (as we understood him) their respective jurisdictions ; and he spoke of the importance, to the safety of Great Britain, in the present state of the power of her enemy, of preserving, in their utmost strength, the right and the capacity of government to avail itself in war of the services of its seamen. These observations were connected with frequent professions of an earnest wish,

that some liberal and equitable plan should be adopted for reconciling the exercise of this essential right with the just claims of the United States, and for removing from it all cause of complaint and irritation.

To a very brief sketch of the views of our government, relative to belligerent proceedings in the vicinity of our coasts and harbours, he replied, that there could be no objection on their part to a suitable provision on that head. And as this topick recalled the recollection of captain Whitby's outrages at New York, his lordship took occasion to say, that, if they had been truly represented, they would meet with the severest censure here; that captain Whitby could not be condemned upon such grave charges, unheard; but that he would return to answer for his conduct.

To what was suggested by us on the subject of contraband, he replied only, that he and Mr. Jay had copied the enumeration, in their treaty, from the British treaty with Sweden.

Upon the commercial subject very little was said on either side. For obvious reasons, it was not proper that we should do more than lead to it in a very general way. On the West Indian branch of it lord Grenville remarked, that he did not feel the difficulties which were supposed by many to belong to it; and that he regretted that the 12th article of Mr. Jay's treaty had not been retained, as it would have prepared the way for the more complete admission of the United States into that trade. We inferred from the little that passed on this point, that lord Grenville looked to a prevailing prejudice here, at variance with his own opinion, as likely to oppose itself to our views.

As the illness of Mr. Fox had hitherto restrained Mr. Monroe from sending to him a note, which he had prepared on the subject of captain Whitby's proceedings, he took the opportunity, afforded by this interview, of asking the opinion of lord Grenville as to the course, which, in reference to that interesting object, would now be most proper, intimating at the same time his own desire, that his communication, delayed thus long by motives of delicacy and respect towards Mr. Fox, should, as soon as possible, be brought under the serious consideration of his majesty's government. Lord Grenville stated his opinion and his

wish to be, that the note should be retained for the present.

On the 7th, Mr. Fox underwent the operation of tapping, by which he was much relieved ; and his friends have since had great hopes of his permanent recovery.

On the 9th we called on sir Francis Vincent, and stated to him what had passed with lord Grenville. He now assured us that Mr. Fox wished extremely to act in our affairs himself, and the late favourable appearances seemed to justify an expectation that his convalescence would be sufficiently rapid to enable him to indulge that wish. He even went so far as to express his conviction, that, if there was one reason more than another, why Mr. Fox was at this time particularly anxious to remain in office, it was his strong desire to settle personally with us every question relative to our country.

The publick papers will inform you that lord Lauderdale has been sent by this government to Paris, on the subject of peace. According to some opinions, the basis and the terms had been settled by previous correspondence, and his lordship was simply to perform the office of signing a treaty already adjusted. Others have supposed that he has been sent to make the usual experiment ; and others again, that, although much has been agreed upon, there are certain points upon which this government has been misunderstood by that of France, which require to be explained by an envoy, and are of course still open.

The terms of M. D'Oubril's treaty are yet unknown, and the treaty itself is in all respects as mysterious as at first.

We need not suggest to you the various conjectures, which it would be possible to form, as to the causes to which it is owing that our negotiation is not yet in train, and as to the probable effect of our mission. We have not been inattentive to what has passed here, and upon the continent ; but we are disposed to give credit to the professions of just and amicable views which we have so often heard, and to the precise assurances which have so frequently been given to us, that Mr. Fox's illness alone has suspended our progress. In the actual state of things it would be vain, and probably injurious, and certainly harsh, to be very urgent for despatch. You may be assured.

however, that we shall lose no opportunity of fulfilling the just expectations of our government, with as little delay as possible.

We have the honour to be, &c.

JAMES MONROE,  
WILLIAM PINKNEY.

James Madison, Esq. Secretary of State.

[*Here follows No. 3, sent as confidential.* It is a letter from Messrs. Monroe and Pinkney to the Secretary of State, dated 15th August, 1806.]

No. 4.

*Extract of a Letter from Messrs. Monroe and Pinkney, to the Secretary of State. London, August 21, 1806.*

SIR,—We have the pleasure to transmit you a copy of a note from Mr. Fox of yesterday, which announces the appointment of lords Holland and Auckland to meet us on the subjects which are embraced by our joint commission. We flatter ourselves that we shall enter on this business in the course of a few days, and that we shall be able in a short time afterwards to speak with some confidence of the result. We add with pleasure that we see no reason, at this time, to think the prospect less favourable to a satisfactory one than we have heretofore presumed it to be. Aware of the considerations which urge despatch, we have been and shall continue to be attentive to that object, though it is far from being in our power to promise any thing explicit on that point.

*Downing Street, Aug. 20, 1806.*

MR. Secretary Fox presents his compliments to Mr. Monroe and Mr. Pinkney, and he has the honour to inform them that his majesty has been graciously pleased, (Mr. Fox not yet being sufficiently recovered to attend to business of such magnitude,) to appoint lord Holland and lord Auckland to enter with Mr. Monroe and Mr. Pinkney upon the discussion of all matters now pending between



his majesty's government and the government of the United States.

Mr. Fox feels it his duty, in expressing his regret at being unable, at the present moment, to undertake this important business himself, to observe, that his majesty, in this appointment of commissioners, has given a fresh proof of his most anxious and constant desire to bring to a speedy termination all discussions between the two countries, and to form such arrangements as may tend to render perpetual a system of mutual friendship and cordiality so conducive to the honour and interests of both.

Mr. Fox begs Mr. Monroe and Mr. Pinkney will accept the assurance of his high consideration.

*From Sir Francis Vincent. Downing Street, August 1, 1806.*

MY DEAR SIR,—Having communicated to lord Grenville, as I told you I would, your and Mr. Pinkney's anxiety to see one of his majesty's ministers, his lordship has desired me to inform you, that he will fix as early a time as he can to have the honour of receiving you. If you will have the goodness to communicate this to Mr. Pinkney, I trust he will dispense with my troubling him with a similar notification.

Believe me ever, dear sir, most truly and sincerely yours,

F. VINCENT.

James Monroe, Esq. &c. &c. &c.

*To Lord Grenville. Portland Place, Aug. 2, 1806.*

MR. MONROE and Mr. Pinkney present their compliments to lord Grenville, and request the honour of an interview with his lordship, on the interesting subjects which form the object of their special mission, with which they are honoured by their government, to his Britannick majesty. They make this request in consequence of the much lamented indisposition of Mr. Fox, which has hitherto, and still continues to put it out of his power to meet them on that important business.

*From Lord Grenville. Downing Street, Aug. 2, 1806.*

LORD GRENVILLE presents his compliments to Mr. Monroe and to Mr. Pinkney, and will be happy to have the honour of seeing them on Monday next, at one o'clock.

(A similar note sent to Mr. Pinkney.)

*From Lord Grenville. Downing Street, Sunday, August 3, 1806.*

LORD GRENVILLE presents his compliments to Mr. Monroe and to Mr. Pinkney. Lord Grenville, when he made the appointment for to-morrow at one o'clock, did not recollect an engagement he had in the city, at that hour, and therefore requests to have the honour of seeing Mr. Monroe and Mr. Pinkney on Tuesday, at one o'clock.

(A similar note sent to Mr. Pinkney.)

No. 5.

*London, Sept. 11, 1806.*

SIR,—Our first meeting with lord Holland and lord Auckland took place in Downing street on the 22d of August. After the usual exchange of powers, we stated, at their request, the objects of our mission, and the general nature of the stipulations by which we expected them to be provided for. They took minutes of what was said by us, for the purpose of making their report to the cabinet, and threw out some observations, but of a very loose and inconclusive character, upon several branches of the subject. They resisted, with great earnestness and decision, as an impracticable subject, the claim of indemnity, which we pressed as standing upon unquestionable grounds of justice. They appeared to consider the subject of impressment as extremely delicate and embarrassing, and that of our trade with the colonies of their enemies as presenting important, although not equal difficulties; and lord Auckland expressed a strong desire, which of course we discouraged, that the former should be suffered to rest upon mere understanding, and find no place in the pre-

jected treaty. The best dispositions were, however, professed to arrange every thing upon fair and amicable principles, and nothing was suggested to impair the hope, that the result of our negotiation would be entirely satisfactory. We were told at parting, that an early day would be mentioned for renewing our conferences.

On the 28th we met them again upon their own appointment. We were then told, that the purpose of this interview was to obtain from us an explanation of our views with reference to some of the points upon which we had touched at the former meeting. We were accordingly asked to state precisely what equivalent stipulation for restoring British seamen, leaving their service, we would be disposed to insert in the article relative to impressment. Having ascertained that it was vain to expect their consent to an arrangement on this interesting topick, in which some such provision was not an ingredient, we gave them at length a project upon this point, extracted from Mr. Monroe's instructions of 1804, requesting them, however, to receive it as perfectly extra-official, and combining it, as you will perceive, with the provisions in their most advantageous form, for which it was required as the equivalent. A copy of this paper is among the enclosures. We presumed that this course, while it hazarded nothing, would at least promote despatch, and that the air of frankness which belonged to it would be likely to influence advantageously the temper and character of our discussions upon this and every other question before us.

We were also asked to explain the footing upon which we desired to place the commercial intercourse between the United States and the British European dominions. This we did by intimating, as we had done at the former meeting, that the footing of the most favoured nation, extended to all the European dominions of his majesty, was, in a general view, the most natural. Their inquiries, however, looked to some precise and equal arrangement of tonnage and imposts, and the countervailing power in Mr. Jay's treaty was slightly mentioned. Without encouraging at this time any discussion on this point, which they did not seem to be prepared or inclined to enter into, we thought it proper to suggest for their consideration the expedient of a mutual abolition of alien duties.

On the impressment subject it was soon apparent, that they felt the strongest repugnance to a formal renunciation or abandonment of their claim to take from our vessels on the high seas such seamen as should appear to be their own subjects; and they pressed upon us with much zeal, as a substitute for such an abandonment, a provision that the persons composing the crews of our ships should be furnished with authentick documents of citizenship, the nature and form of which should be settled by treaty; that these documents should completely protect those to whom they related; but that, subject to such protections, the ships of war of Great Britain should continue to visit and impress on the main ocean as heretofore.

They enforced their preference for this sort of arrangement, in a desultory conversation, by observing, that they supposed the object of our plan to be to prevent the impressment at sea of American seamen, and not to withdraw British seamen from the naval service of their country, in times of great national peril, for the purpose of employing them ourselves; that the first of these purposes would be effectually accomplished by a system which should introduce and establish a clear and conclusive distinction between the seamen of the two countries, which on all occasions should be implicitly respected; that if they should consent to make our commercial navy a floating asylum for all the British seamen, who, tempted by higher wages, should quit their service for ours, the effect of such a concession upon their maritime strength, on which Great Britain depended, not only for her prosperity but her safety, might be fatal; that in the most alarming emergency they might thus be deprived, to an extent which it was impossible to calculate, but which could not fail to be great, of their only means of security; that our vessels might become receptacles for deserters to any amount, even from their military marine, in the ports of neutral states, and when once at sea, might set at defiance the just claims of the service to which such deserters belonged; that even within the United States it could not be expected that any plan for recovering British deserters could be efficacious, and that, moreover, the plan we proposed was inadequate in its range and object, inasmuch as it was merely prospective, confined wholly to deserters, and in no respect providing for the case of the vast body of Bri-

tish seamen now employed in our trade to every part of the world. To this it was replied, that one of the suppositions, on which much reliance had been placed, was that of an extreme case which was barely possible in fact, and which, if it should happen at all, and redress should not be afforded by the interference of the neutral power, in whose port the unlawful refuge should be attempted, could not be considered as within the spirit of such a provision as we had suggested; that another of these suppositions ascribed undue importance to the resource in question, which, while it severely oppressed and irritated their friends, could add little to the effective strength of their navy; that the number of men thus violently taken from our vessels, if American citizens should be deducted, had always been comparatively small; that if Great Britain should now be admitted (as intended by the plan) to the benefit of our domestick regulations, for apprehending and securing within our country future deserters from her merchant and other vessels, the number to which such a resource could apply, must hereafter be considerably less, and in time be wholly insignificant; that it would be in their own power to prevent us, by suitable regulations, from carrying their seamen from their own ports, and would become our duty to assist in restoring them, when they should desert, and be found within our jurisdiction; that there was every reason to believe that this assistance would be as effectual as was known to be in the case of our own seamen deserting from our own vessels; for that even if it should be admitted that a motive might now be imagined of sufficient power to induce the people of the United States to give shelter and protection to deserting British seamen, it was obvious that this motive arose out of the claim and practice on the part of Great Britain, which it was now proposed to renounce, and would cease with them; that there would moreover be open to this country the fair and reasonable exercise of the right of regaining her own seamen, within her own jurisdiction, as opportunity occurred, in whatsoever vessels they should be found; that impressment upon the high seas, by those to whom that service is necessarily confided, must, under any conceivable guards, be frequently abused, and in its best form cannot fail to generate private animosity and national resentment, and of course to endanger the friendly

relations of the two countries ; that if it were for no other cause, we should see with deep regret the power of impressment at sea, under any modifications, however plausible, insisted upon ; but that it was, besides, impossible that we should acknowledge, in favour of any foreign power, the claim to such a jurisdiction on board our vessels upon the main ocean, as this sort of impressment implied ; a claim as plainly inadmissible in its principle, and derogatory from the unquestionable rights of our sovereignty, as it was vexatious in its practical consequences.

Upon the commercial subject we collected that the East India trade would not be likely to give much trouble ; but that an open trade to the British West Indies will be obtained, if at all, with great difficulty. Lord Auckland expressed an opinion, that there should be a restriction upon the tonnage, as in the twelfth article of the treaty of 1794, which we told him at once could never be agreed to ; and lord Holland spoke of a duty to be imposed by our government upon the importations from their islands, which would be of sufficient amount to check the exportation of the articles, so imported, to Europe. His idea was, of course, that no part of this duty should be remitted as a drawback, and he wished to comprehend in this plan our importations from enemy colonies, without which it could have no other effect than to force the imports from the British colonies into our internal consumption, and leave the imports from enemy colonies for exportation. We thought it proper to oppose ourselves in a particular manner to the last mentioned application of this plan, and it was not persisted in.

The trade with enemies' colonies was still viewed as an embarrassing subject, and continuous voyages, even between neutral European ports and these colonies, were strongly protested against. It appeared to be certain, however, that our opponents would finally agree, that the continuity of the voyages should be held to be broken by the landing of the cargoes in the United States, and perhaps, also, the paying or securing the duties, as heretofore practised. We did not bring into view at this time the distinction, which we mean hereafter to urge, in favour of our commerce with the East India colonies of the other parties to the war.



In the course of this conference lord Auckland renewed a proposal, which he had glanced at in our first interview, that the treaty of 1794 should be made the basis of the present negotiation. This was rejected in such a manner as to obtain for the rejection his entire acquiescence. His lordship, towards the close of the meeting, inquired if Congress had not, at their last session, passed some law affecting their commercial relations with Great Britain. We had been restrained from calling their attention to the act prohibiting, &c. by the apprehension, that, as they could not be supposed to be ignorant of it, we might be thought, by pressing it officiously and ostentatiously into notice, to wish to make use of it as a menace; but we now took occasion to explain, in as conciliatory a manner as was consistent with the complete justification of the law, its origin, and character. They requested us to give them a copy of the act, and we sent it accordingly the next day.

On the 4th instant, at night, we received from the British commissioners a note upon the subject of the act of Congress, of which a copy is enclosed. It appeared to us, that it would be prudent to found upon this note a request of an immediate interview, in the course of which it might perhaps be practicable to avail ourselves of their anxiety, that a suspension of the act should be pressed upon our government, to advance our negotiation, with reference at least to the most interesting of the topics involved in it. To our note, desiring an interview, lord Holland replied, that he would be glad to see us on the                    but that lord Auckland, being out of town, would not probably be able to attend. Lord Auckland did not in fact, and we believe could not, attend. We opened this conference with lord Holland by observing, that we had been withheld by considerations which he would easily comprehend, from being the first to mention the act of the American government, which formed the subject of their note, but that it had been constantly present to our minds as making it peculiarly desirable, that we should understand one another, as soon as possible, upon some, if not all of the points in discussion between us, and as presenting the prospect of a dilemma, as the period prescribed for its commencement approached, without finding us forward in our negotiation. After a short vindication of the act, in

the course of which we did not omit to represent it in connexion with the special mission which grew out of it, as manifesting the friendly sentiments and views of our government towards that of his majesty, we observed, that, relying upon the dispositions which their lordships had constantly avowed, and by which they were evidently animated, to establish between the two countries, by a suitable adjustment of all subsisting differences, the most perfect and lasting harmony, it was our earnest desire to take some effectual step, which should save the honour of both our governments, for ensuring the suspension which their lordships had recommended; that there might be reason to apprehend that, unless some advantageous change should appear to have taken place in the state of things, which, in the opinion of Congress, required the adoption of the measure in question, it would not easily be abandoned, even for a time; that no such change had taken place, for that all the subjects of complaint which had excited the sensibility of Congress at their last session, and led to the passage of this act, were still as much at large as ever; that it was indeed true that commissioners, in the highest degree acceptable, had been appointed by his majesty's government to treat with us, and that the spirit of justice and amity displayed by their lordships promised the happiest results; but that it was also true, that up to this period it could only be said, as might equally be said of the period when this act was finally past, that negotiations were depending; that we were therefore extremely anxious, when we should transmit their lordships' note to the United States, to be enabled to accompany it with assurances that although much remained to be done, the two subjects of impressment and trade with enemies' colonies would certainly be adjusted to the satisfaction of our government.

Lord Holland told us in reply, that we were aware that the first of these subjects was full of difficulty, and required that the feelings and opinions of many persons should be managed and consulted; that it touched the most delicate and momentous of their national concerns, and called for much inquiry and deliberation; that he hoped it would soon be practicable (and we might be confident that there should be no unreasonable delay,) to submit to us a

plan, to which both sides might without reluctance consent ; that in the mean time we could state to our government, what was unquestionably true, that those with whom we were treating were diligently and anxiously employed, in endeavours to devise an arrangement which should be convenient and honourable to us, and at the same time free from improper hazard to Great Britain ; that it appeared to him that the actual pendency of the negotiations here (unless their sincerity were distrusted, as he was sure it would not be) would furnish an adequate motive to Congress for merely postponing the commencement of a law, which was originally a very strong measure, and would certainly, if allowed to go into operation at a moment when Great Britain was affording, in the face of the world, an unequivocal demonstration of her wish to remove every ground of misunderstanding between us, acquire a character of extreme harshness ; that it was greatly to be lamented that the discussions, in which we were now engaged, had not been sooner begun ; but that knowing, as we did, to what cause the delay was to be ascribed, we knew also that it was unavoidable. His lordship mingled with these observations the most amicable assurances, and took an occasion, which a remark from one of us presented, to express his conviction, that the event of a peace between Great Britain and France would be so far from creating any indisposition, or producing any obstacle on the part of this country, to a liberal adjustment with us, that it would rather facilitate that adjustment by removing from some of the topicks the peculiar interest and difficulty which the present crisis imparts to them.

After some further efforts on our part to promote the object of this interview, without departing from that tone of conciliation which prudence as well as inclination recommended, we separated ; and soon afterwards, we prepared and sent to the British commissioners an answer to their note of the 4th, of which you will find a copy enclosed.

To these details we take the liberty to add our opinion, formed upon a careful view of the whole subject, that it will be proper, upon the meeting of Congress in December, to suspend the act for prohibiting the importation of certain articles of British manufacture, so as to af-

ford farther time for the completion of the negotiations which it evidently presumes, and which are now in train.

The ground which Congress have taken in this just and salutary measure, we are far from wishing to abandon ; but to suspend and to abandon it are very different things. The last would wound deeply the honour of the nation, and prostrate the character of the government ; but the first is in perfect conformity with the spirit and purpose of the law, and, while it would furnish a signal proof of the equity and moderation of our publick councils, would preserve unimpaired that firm and dignified attitude which it becomes us at all times, but now especially, to maintain. The suspension will be so far from relinquishing the measure, or weakening its effect, that it will distinctly imply a re-assertion of its principle and policy, and an unshaken resolution to act upon and enforce it, as soon as negotiation shall have been sufficiently and unsuccessfully tried.

The death of Mr. Fox, which every hour is expected to announce, may, and probably will retard our progress for some time ; but our hopes are strong that we shall finally, and without much further delay, accomplish the great objects confided to us. The temper which the British commissioners have obviously brought to the negotiation, corresponding with that which has been manifested towards the mission by those who hold official stations here, as well as by the publick in general, is as friendly and respectful to our government and country as could be desired. We shall continue our exertions to fulfil, with all possible despatch, the instructions with which we have been honoured, and shall communicate to you by the earliest opportunity whatever of importance shall occur.

We have the honour to be, &c.

JAMES MONROE,  
WILLIAM PINKNEY.

James Madison, Secretary of State.

P. S. SEPT. 12. We have just received separate notes to the same effect from lord Auckland, of which copies are enclosed. They authorize us to expect that the conference of Wednesday next, to which he invites us, will enable us to give you details of a more precise and interesting nature

than it has been practicable to give in the letter to which this is a postscript.

We omitted to mention in this letter, that we have been assured by the British ministers (particularly by lord Holland) that a liberal and satisfactory article, relative to the extent of our jurisdiction over the waters near our coast, and the exemption of the defined limits from all the operations of war, will be cheerfully agreed to, and that an article for defining blockade will meet with no opposition.

SEPT. 13. The account of Mr. Fox's health of this morning is, that the unfavourable symptoms have returned to so alarming a degree, as to leave no hope that he can long survive.

*From Lord Holland. Downing Street, Aug. 23, 1806.*

DEAR SIR,—I have seen lord Auckland this morning, and, if not inconvenient to you and Mr. Pinkney, we thought of proposing to you to meet us at the foreign office, Downing street, at twelve o'clock, next Wednesday.\* On that day we can exchange our powers, and will, if you please, take minutes of the general objects of your mission.

I am, &c.

HOLLAND.

James Monroe, Esq. &c. &c. &c.

*To Lord Holland. Portland Place, Aug. 24, 1806.*

MY LORD,—I have been honoured with your note of yesterday, inviting Mr. Pinkney and myself to meet your lordship and lord Auckland at the foreign office, in Downing street, at 12 o'clock, on Wednesday next, for the purpose of exchanging our powers, and commencing the business confided to us by our respective governments. I have conferred with Mr. Pinkney on the subject, and have to assure your lordship, that we shall be punctual to the appointment which you have been so good as to give us.

I am, &c.

JAMES MONROE.

The Right Hon. Lord Holland, &c. &c. &c.

\* 27th August

*From Lord Holland and Lord Auckland. Downing Street,  
Aug. 28, 1806.*

LORD HOLLAND and lord Auckland present their compliments to Mr. Monroe, and request, that, if it be not inconvenient to him, he will have the goodness to meet them in Downing street, on Monday next,\* at 12 precisely.

[A similar note sent to Mr. Pinkney.]

*To Lord Holland and Lord Auckland. Aug. 29, 1806.*

MR. MONROE presents his compliments to lord Holland and lord Auckland, and has the honour to inform them, that Mr. Pinkney, and he will not fail to wait on their lordships in Downing street, on Monday next, at twelve o'clock.

*To Lord Holland and Lord Auckland. Portland Place,  
Sept. 2, 1806.*

MR. MONROE and Mr. Pinkney present their compliments to lord Holland and lord Auckland, and have the honour to enclose to their lordships a copy of the act of Congress, which they requested in their interview of yesterday.

*From Lord Holland and Lord Auckland. Downing Street,  
Sept. 4, 1806.*

GENTLEMEN,—We have received a copy (sent by you at our request) of the “act of Congress to prohibit, from and after the 15th of November, the importation into the territories of the United States of a very large description of goods, wares, and merchandise, from any port or place situated in Great Britain or Ireland.”

On a full consideration of that act, we think it our duty to express our earnest hope and expectation, that some means may be found to suspend the execution of a measure so opposite, in its temper and tendency, to the dispo-

\* 1st September.



sition and views, with which our pending negotiation has been commenced, and is carrying on.

That measure, unless suspended, will take effect, if not before our discussions can be closed, at least before it is possible that their result can be known in the United States; and would obviously lead to the necessity of proposing to parliament similar steps on the part of this country, by which mutual irritation would be excited, and fresh impediments created in the way of such a final adjustment as, we trust, is mutually desired.

We rely on you for taking such immediate steps in this business, as may best contribute to a happy termination of our treaty, and to a cordial and permanent friendship between his majesty's subjects and the citizens of the United States.

We have the honour to be, &c.

VASSAL HOLLAND.  
AUCKLAND.

James Monroe, Esq. and Wm. Pinkney, Esq.

P. S. The sailing orders of the North American mail will, in course, be issued this evening, unless you should wish to have them delayed for a day or two.

*To Lord Holland and Lord Auckland. Sept. 4, 1806, 10 o'clock, P. M.*

MR. MONROE and Mr. Pinkney present their compliments to lord Holland and lord Auckland, and have the honour to request an interview with their lordships, at as early a moment as shall suit their convenience, on the subject of their note this day, which they have just received. In the mean time the delay suggested in the postscript to their lordships' note, of the sailing orders of the North American mail, will be extremely agreeable to Mr. Monroe and Mr. Pinkney.

*From Mr. Allen, (Secretary of Lord Holland.) Holland House, Friday, Sept. 5.*

DEAR SIR,—Lord Holland understanding by your and Mr. Pinkney's note of yesterday, that you are desirous to

have some conversation with him before the sailing of the American packet, will be happy to meet you and Mr. Pinkney to-morrow, at the foreign office, at half past 11 o'clock.

I have the honour to be, &c.

JOHN ALLEN.

James Monroe, Esq. &c. &c. &c.

*To Lord Holland and Lord Auckland. Sept. 10, 1806.*

THE undersigned, ministers extraordinary and plenipotentiary of the United States of America, present their compliments to lord Holland and lord Auckland, and have the honour to inform them, that they will hasten to transmit to their government their lordships' note of the 4th inst. the receipt of which has already been acknowledged.

The undersigned consider it their duty to assure lord Holland and lord Auckland, that nothing is more remote from the views of their government, than to oppose any obstacle to a fair and satisfactory conclusion of the present negotiation. They are persuaded, if all the circumstances, which have occurred between the two governments since the commencement of the present war, are taken impartially into consideration, that not the slightest doubt can remain on that point. It is certain, that the act of Congress, to which their lordships have objected, is attributable to other causes of a very imperious nature, and that it furnishes no sufficient reason to call in question the sincerity, with which the United States have uniformly sought to preserve the most friendly relations with Great Britain. The undersigned are, however, far from being desirous to look back to incidents, a review of which can serve only to produce regret. It is more important, and therefore more agreeable, to look forward, and to provide by suitable arrangements against the like in future.

The undersigned flatter themselves, that nothing will occur on either side to excite irritation, or to create new obstacles in the way of an adjustment, which it is confidently believed the interest of both countries requires. They indulge the hope, that the present negotiation, which has been entered into by both governments with a sincere desire to adjust all subsisting differences, and to place their

navigation and commerce on a basis of reciprocal advantage, will succeed in all its objects. The undersigned will not fail to promote that desirable result by all the means in their power. They will be happy in transmitting to their government a copy of their lordship's note of the 4th instant, to do justice to the friendly disposition which their lordships have brought into the negotiation; and in the mean time the undersigned will always be prepared to promote by their joint labours, with the greatest possible despatch, and on fair conditions, a satisfactory conclusion of it.

The undersigned request lord Holland and lord Auckland to accept the assurance of their high consideration.

JAMES MONROE.

W. PINKNEY.

*From Lord Auckland to Mr. Monroe. Office for Trade, Whitehall, Sept. 12, 1806.*

MY DEAR SIR,—Lord Holland and I have received your note of the 10th inst. in answer to ours of the 4th instant. The unhappy consideration, which at present occupies lord Holland, has prevented him from meeting me since I returned from Dropmore; but I have received several letters from him, in which he expresses great anxiety that you should be informed by me, that we are not neglecting the joint objects which we all have in view.

If you and Mr. Pinkney (to whom I send a duplicate of this note) could conveniently come to Downing street, at eleven o'clock, next Wednesday morning,\* I shall then be able to state provisionally (in lord Holland's absence) many particulars which may deserve your consideration, and advance our next official discussion.

I am, dear sir, most sincerely yours,

AUCKLAND.

*To Lord Auckland. Portland Place, Sept. 14, 1806.*

MY LORD,—I have had the pleasure to receive your letter of the 12th, and shall with Mr. Pinkney not fail to meet

\* September 17

your lordship at Downing street, on Wednesday next, at eleven in the morning. We will receive there any communications which your lordship will be so good as to make on the interesting subjects which engage our joint attention, not doubting that every interview will contribute to advance the business to its desired conclusion. We are aware, that lord Holland's domestick distress and duties will deprive us of the pleasure of seeing him for the present, and hope that your lordship will prevent that circumstance giving him the least anxiety. I beg your lordship to present, &c. &c. and to be assured of the great consideration and esteem, with which I have the honour. &c. &c.

JAMES MONROE.

*Enclosed in Messrs. Monroe and Pinkney's Letter of September 11, 1806.*

ARTICLE I.

No person whatever shall, on the high seas and without the jurisdiction of either party, be demanded and taken out of any ship or vessel, belonging to citizens or subjects of one of the parties, by the publick or private armed ships belonging to or in the service of the other, unless such person be at the time in the military service of an enemy of such other party.

No person, being a subject or citizen of one of the parties, and resorting to or residing in the dominions of the other, shall in any case be compelled to serve on board any vessel, whether publick or private, belonging to such other party; and all citizens or subjects whatever of the respective parties, at this time compulsively serving on board the vessels of the other, shall be forthwith liberated, and enabled by an adequate recompense to return to their own country.

In all questions which may arise within the dominions of either power, respecting the national character of any person who claims to be a citizen or subject of the other power, due credit shall be given to such publick document as his government may have granted for his protec-

tion. And where such documents may have been lost, destroyed, or by casualty not obtained, and any person claims to be a citizen or subject of either party, such other evidence of said claim shall be received and admitted, as would be satisfactory in a court of judicature. The high contracting parties engage, that due care shall be taken that such documents shall be granted in their respective ports to such persons only as are justly entitled to them, and by suitable officers, who shall be specially designated for the purpose.

#### ARTICLE II.

It is agreed, that no refuge or protection shall be afforded by either party to the mariners, sailors, or other persons, not found to be its own citizens or subjects, who shall desert from a vessel of the other party, of the crew whereof the deserter made a part; but on the contrary, all such deserters shall be delivered up on demand to the commanders of the vessels from which they shall have deserted, or to the commanding officers of the ships of war of the respective nations, or to such other persons as may be duly authorized to make requisition in that behalf, provided that proof be made within two years from the time of desertion by an exhibition of the ship's papers, or authenticated copies thereof, and by satisfactory evidence of the identity of the person that the deserters so demanded were actually part of the crew of the vessels in question.

And for the more effectual execution of this article, adequate provision shall be made for causing to be arrested, on the application of the respective consuls or vice consuls to the competent authorities, all deserters, duly proved to be such, in order that they may be sent back to the commanders of the vessels to which they belonged, or removed out of the country. And all due aid and assistance shall be given in searching for as well as in seizing and arresting the said deserters, who shall even be detained and kept in the prisons of the country at the request and expense of the said consuls or vice consuls, until they shall have found an opportunity of sending them back or removing them as aforesaid. But if they be not sent back or removed within three months from the day of their ar-

rest, they shall be set at liberty and shall not be again arrested for the same cause.

GEORGE R.

GEORGE the third, by the grace of God of the united kingdom of Great Britain and Ireland, king, defender of the faith, duke of Brunswick and Lunenburgh, arch-treasurer, and prince elector of the holy Roman empire, &c.&c.

*To all and singular to whom these presents shall come,*

*Greeting :*

Whereas for the better treating of and arranging certain subjects now in discussion between us and our good friends the United States of America, the President of the United States, with the consent and by the authority of the Senate and House of Representatives of the said United States, has nominated, constituted and appointed James Monroe, Esq. and William Pinkney, Esq. commissioners extraordinary, to conduct the said discussion on behalf of the said United States : and we, reposing especial trust and confidence in the wisdom, loyalty, diligence and circumspection of our right trusty and well beloved counsellor Henry Richard Lord Holland, and our right trusty and well beloved counsellor William Lord Auckland, have nominated, constituted and appointed, and by these presents do nominate, constitute and appoint them our true, certain and undoubted commissioners, procurators and plenipotentiaries, giving to them all and all manner of faculty, power and authority, together with general as well as with special orders (so as the general do not derogate from the special, nor on the contrary) for us and in our name, to meet, confer, treat and conclude with the said James Monroe and William Pinkney, being duly furnished with sufficient powers on the part of our said good friends the United States of America, of and concerning all such matters and things as may be requisite and necessary for accomplishing and completing the several ends and purposes herein before adverted to, and of and concerning all such matters and things as may tend to the mutual interests and advantage of our subjects or dominions and of those of our said good friends, and to the promoting and maintaining a



mutual friendship, good understanding and intercourse between our subjects or dominions, and those of our said good friends, and for us, and in our name to sign all such article or articles, or other instruments whatsoever, as may be agreed upon between the said plenipotentiaries, and mutually to deliver and receive the same in exchange; and to do and perform all such other acts, matters and things, as may be anywise proper and conducive to the purposes above adverted to, in as full and ample manner, and with the like validity and effect, as we ourself, if we were present, could do and perform the same, engaging and promising on our royal word, that we will accept, ratify and confirm all such acts, matters and things as shall be so transacted and concluded by our aforesaid commissioners, procurators and plenipotentiaries, and that we will never suffer any person to violate the same in the whole or in part to act contrary thereto. In testimony and confirmation of all which, we have caused our great seal of our united kingdom of Great Britain and Ireland to be affixed to these presents, signed with our royal hand. Given at our court at St. James's the twentieth day of August, in the year of Lord one thousand eight hundred and six, and of our reign the forty-sixth.

No. 6.

*London, Nov. 11, 1806.*

SIR,—We flattered ourselves at the date of our last despatch, which was of September 11th, that we should have been able to have concluded a treaty with the British commissioners, and to have transmitted it to you before this, on all the interesting topicks which are embraced by our instructions, and on terms that would be approved by our government. The disposition which had been shown by the members of the cabinet, with most of whom we had had conversations on the subject, and the sentiments which had been expressed in our conferences by the plenipotentiaries who had been appointed to meet us, independent of other considerations of a favourable character, had inspired us with great confidence in such a result. We regret, however, to be now under the necessity of stating to you, that although every topick has been frequently taken,

into consideration and discussed, and there is good cause to believe that a satisfactory arrangement may be obtained of many of the great points, and an admissible one of the inferior, that nevertheless nothing has been concluded on any point, and an insurmountable difficulty has occurred on one which is deservedly considered of the first importance to our country.

The opportunity by which we propose to forward this communication is so pressing as to time, that we fear we shall not be able to give you all the details which have attended the negotiation since the 11th of September. We shall, however, endeavour to comprise in it every circumstance which may be necessary to convey a just idea of its present state and probable result.

You were apprized by our last of the delay to which we had been previously exposed by the indisposition of Mr. Fox. It happened unfortunately that the same cause subjected us afterwards to much interruption in the prosecution of the business, which was finally suspended altogether, for several weeks, by his death. We add, however, with pleasure, that we experienced no delay on account of Mr. Fox's indisposition, which did not appear to us, in consideration of all circumstances, to be natural and reasonable; that the business was resumed by the British commissioners as soon after his death, and interment, as a suitable respect for his memory would permit; and that it has been pursued by them since in a manner to evince an evident desire on their part to bring it to a speedy conclusion.

Our attention was naturally drawn, from the commencement of the negotiation, to its principal objects, the impressment of our seamen, and the trade with enemies' colonies, the former of which presented the most serious difficulties with this government. As we knew that the tranquillity of our country, if not its peace, was essentially connected with a suitable provision for this great interest, it seemed useless to proceed to those of minor consideration, till it should be satisfactorily disposed of. Hence the greater portion of our time and labour has been bestowed in our several conferences on this latter topick. We have said every thing that we could in support of our claim, that the flag should protect the crew, which we have contended was founded in unquestionable

right, whose enjoyment it was indispensable to secure by an unqualified and positive stipulation in its favour. We have also proposed in a spirit of accommodation every suitable expedient that we could devise, consistent with that principle, to obviate the inconveniences which it was urged on the other side were likely to result from its admission. But all our efforts have so far proved ineffectual. The right was denied by the British commissioners, who asserted that of their government to seize its subjects on board neutral merchant vessels on the high seas, and who also urged that the relinquishment of it at this time would go far to the overthrow of their naval power, on which the safety of the state essentially depended. At one time, and that very recently, there was a prospect of an agreement on conditions which appeared to be just and fair between the parties, but that seems now to have completely vanished. It was urged by the British commissioners, that the proposition which we had made, to give the aid of the local authorities of the United States to apprehend and restore deserters from their vessels, as an inducement for their government to acknowledge the right which we contended for, in favour of the vessels of the United States on the high seas, did not furnish a complete remedy for the evil complained of. It did not follow, they observed, that such deserters would, in all or even most cases, retire into the country; they might, on the contrary, go on board an American vessel which might put immediately to sea, where our flag would protect them; that such desertions might also take place in a neutral port, and be attended with like consequences. They were therefore desirous that we should stipulate, that a law should be passed by the Congress, (to be of course reciprocal) which should make it penal for the commanders of American vessels to take deserters from those of Great Britain, under such circumstances, they being British subjects; and likewise, to make it the duty of our government to restore them on their arrival in the United States, on suitable application, and due proof being made of their persons. We agreed to provide a remedy for this presumptive evil. They then observed that the term "deserters" was too limited, according to their law, to comprehend those who might leave their merchant vessels; that it would apply only to such as left their ships of war; they therefore pro

posed that we should enlarge its import by adding the following terms, "seafaring people quitting their service;" to which we also agreed, taking care, however, by confining their operation always to the case of real desertion from some vessel, not to give them a greater range in the sense of our law than we had at first intended. To our original project, thus amended, the British commissioners seemed to give their assent; they agreed expressly to propose an article to the cabinet to that effect, from which circumstance, and from what had previously occurred in our conferences, we were led to conclude that they would also support it. To give the cabinet full time for deliberation on the subject, our next meeting was postponed to so distant a day as to admit it. We are sorry to add, that the result of that deliberation was a rejection of the project, and with it an end to all hope of obtaining, at this time, in its stead, any satisfactory stipulation by treaty respecting impressments.

Our next interview had been appointed to take place on the 5th instant. On the preceding day we received a note from the British commissioners, with a report from a law officer of the crown, which seemed to be communicated to prepare us for what they had to announce more formally the next day. The report of the crown officer had been made in answer to an inquiry from them, on what ground Great Britain claimed a right to take by force her seamen from on board the merchant vessels of other powers, on the high seas. The report justified the pretension by stating, that the king had a right, by his prerogative, to require the service of all his seafaring subjects against the enemy, and to seize them by force wherever found, not being within the territorial limits of another power; that as the high seas were extra-territorial, the merchant vessels of other powers, navigating them, were not admitted to possess such a jurisdiction as to protect British subjects from the exercise of the king's prerogative over them. We were desired to consider the communication as a private one, at least in that stage. At our meeting the next day the British commissioners stated explicitly, but in a very conciliating manner, that it was not in their power to adopt an article in the spirit of our project; that the board of admiralty had been consulted on the subject, as had also been the crown officers in doc

tors commons, who united all, without exception, in the opinion, that the right of their government, in the case in question, was well founded, and ought not to be relinquished. They added, that under such circumstances the relinquishment of it was a measure which the government could not adopt without taking on itself a responsibility which no ministry would be willing to meet, however pressing the emergency might be. They presented to us at the same time a counter project, which they intimated they did in obedience to instructions from their government. It was proposed by this, that laws should be passed by the parties respectively, whereby it should be made penal for the commanders of British vessels to impress American citizens on board American vessels on the high seas, and for the officers of the United States to grant certificates of citizenship to British subjects. The negotiation being thus brought, as it were, to an issue on this very important point, the discussion of the whole subject was necessarily resumed, at considerable length, and with great earnestness. We maintained, with all the force in our power, the right of our government, on the principle, and to the extent we had done before, and denied as strenuously the pretension advanced by Great Britain: their counter project we declared was utterly inadmissible, as its adoption, so far from securing the just rights of the United States, and remedying the evils of which they complained, would prove an abandonment of their rights, and a sanction, in a considerable degree at least, to future injuries. The British commissioners, after supporting with great force, but with candour, the claim of their government, assured us that it was willing to do any thing in its power to satisfy the United States on the ground of their complaints, which might be done without a relinquishment of their claim. This interview terminated in the appointment of another to take place on the 7th, when it was agreed that the subject should be definitively disposed of; and in the interim, that each party should revolve it in mind, to see if it might not be possible to suggest some plan which would prove equally satisfactory to both. We met on the 7th according to appointment, and having repeated what we had said before of their counter project, which we deemed altogether inadmissible, and having also stated that we could adopt none which did not allow our ships to



protect their crews, or suggest any accommodation, other than what we had already proposed, as an inducement to their government to admit the principle, and it appearing that no change had taken place in their instructions, we came at length to the main question, that which had in truth been the great object of the meeting, what was next to be done under existing circumstances. Should the negotiation cease? The British commissioners expressed an earnest desire that it should not. We had repeatedly stated that unless this interest was provided for in a satisfactory manner, it would be useless to touch the other points, since a continuance of the same abuses on their part would render of no effect any arrangement however eligible which might be made of them. They intimated that their government gave at present no cause of offence to the United States by impressments, and that we might be satisfied it would continue to pursue the same policy; that it might be better that neither party should abandon its rights, and that each should endeavour to act, in respect to the injuries complained of by the other, in such a manner as to prevent future complaints. They thought that with such a disposition on both sides, seconded by a correspondent exertion, which they assured us existed, and would be made on their part, it was likely that the interest of each country would be placed on a footing, equally secure for temporary purposes, and much more, in respect to a permanent good understanding, than it could be for either by a treaty, which should even stipulate for it the object which it sought. We desired them to communicate to us by note the ideas which they had thus expressed, which they readily undertook by proceeding to give a sketch of them at the time, and evidently showing a disposition to make it as acceptable to us as they could do, consistently with the principles of their government. We adjourned to meet again on the 12th instant, without having come to any positive decision as to the part which it became us to take in the delicate conjuncture in which we were placed. We did not fail, however, in showing our regret, that no suitable provision had been made for the very important question, which had been so long under consideration, to express our sincere desire to pursue that course in respect to the other objects of the negotiation, which our duty under existing circumstances would



permit, and which might be most likely to promote a good understanding between the two countries.

On the 9th instant, we received from the British commissioners the note which they had promised us in the last interview, which we have found to correspond in all respects with what we had been taught to expect. We have also weighed with due consideration the great question which is propounded by it, and are decidedly of opinion that it is our duty to proceed to the other objects of the negotiation, leaving that of impressment on the ground on which it will be placed by this note, and our acting on it. Many strong reasons favour this course, while none occur to us of any weight against it. When we take into view all that has passed on this subject, we are far from considering the note of the British commissioners as a mere circumstance of form. We persuade ourselves that by accepting the invitation which it gives, and proceeding in the negotiation, we shall place the business almost, if not altogether, on as good a footing as we should have done by treaty, had the project which we offered them been adopted. The time at which this note was presented to us, and the circumstances under which it was presented, being when the negotiation was absolutely at a stand on this very question, and we had informed the British commissioners that we could do nothing, if it was not provided for, give the act a peculiar degree of solemnity and obligation. It was sent to us as a publick paper, and intended that we should so consider it, and with the knowledge and approbation of the cabinet. It ought, therefore, to be held as obligatory on the government, in its just import, as if the substance had been stipulated in a treaty. It is just also to give it a liberal construction in favour of the United States, in consideration that it is the act of the British government. In that view it merits attention, that every thing is expressed in it that could be desired, except the relinquishment of the principle; that in speaking of impressments, the exercise of that act on the high seas is not mentioned, an omission which we know to have been intentional. From a full view of all these circumstances we think it fair to infer that this government intends to conform its conduct in future to the just claims of the United States, on this great interest, while by particular motives of policy it deems it improper to relinquish a claim, espe-

cially at this time, which has been long sustained and acted on by it, and which has been heretofore strongly supported by the national feeling, or, more properly speaking, prejudice; for we cannot believe that the interest of the nation is in favour of it, more especially if the project which we proposed should be adopted, or correspondent regulations entered into to produce the same effect by friendly co-operation between the two governments. We are therefore of opinion, if the negotiation had contemplated an arrangement of this point alone, that it would be proper to close the business amicably on the ground on which it is thus placed, rather than to break off abruptly, and take an unfriendly attitude, from which no advantage could possibly arise in any one respect, and much injury might, and most probably would, for a time at least, even to this very interest. How much stronger, then, is the obligation to proceed, when the other objects of the negotiation are taken also into view, all of which it is highly interesting to arrange, and several of which, of the first consequence, it is, as we believe, in our power to arrange. We are aware that our instructions impose on us the necessity of providing satisfactorily for this great interest, as one of the conditions on which a treaty shall be formed. But it does not appear, that the fair object of that instruction will not be satisfied by the arrangement thus made. The prohibition, not to conclude a treaty otherwise than on the condition adverted to, is fairly to be understood as applicable to a refusal on the part of this government to arrange the business on just principles, and an adherence by it to its former improper and offensive conduct, which it is well known is not the case. Impelled by these considerations and motives, we shall go forward in the negotiation, and use our best efforts to place the other points on the most advantageous footing that may be practicable. We are the more confirmed in this resolution from the consideration, that we shall be able to do it without exposing our government or country to any, the slightest inconvenience. It is known to the British commissioners, that in proceeding under existing circumstances, we shall do it on our own responsibility; a responsibility, however, which we undertake in full confidence that our conduct and the motives of it will be approved.

We shall meet the British commissioners to-morrow to proceed in the negotiation, which we are persuaded it will not require any considerable length of time to conclude. All the other topicks have been heretofore brought into view and discussed, but without any intention in that stage, on either side, to push a definitive settlement of them. So much, however, has been said on each by the British commissioners, as to enable us, as we presume, to form a tolerably correct estimate of what may be obtained on several, especially those of the greatest importance. In respect to the trade with enemies' colonies, they have repeatedly told us, that on condition we would land the cargoes in the United States, store them for a month, and change the ship, they would agree that the trade might be free afterwards in the productions of those colonies to other countries, including the parent country of the colony. We have refused to comply with the condition in respect to the storing of the goods for a month, and changing the ship. Some arrangement more advantageous to us than their proposition, will, we have no doubt, be obtained. The question of blockade, and others connected with it, may we think be satisfactorily arranged. They will agree also to acknowledge our jurisdiction to the extent of a league from our coast; we have claimed that acknowledgment to the extent of three leagues. The trade with India they will put on the footing it held under the treaty of 1794. That with the West Indies must, we fear, rest on the ground of the most favoured nation only. Something we think may also be done in favour of an intercourse with the British provinces to the north of us. But our claim to an indemnity has been much discouraged, though we have never ceased to press it with great zeal. We shall continue to use our best endeavours to place all these great concerns on the most just and advantageous ground in our power, and shall hasten to communicate to you the result with the greatest possible despatch, as soon as the business is concluded.

We have been cautious not to compromit ourselves with respect to the law, which was passed the last session of the Congress, prohibiting the importation of certain British manufactures in the United States, after the 15th of this month, either with this government or individuals. We think it our duty, however, to observe, that our opi-

nion of the propriety of suspending that law remains unchanged, as it was communicated to you in our letter of September the 11th. Indeed the uniform conciliating disposition of this government has strengthened us in that opinion.

Of the state of the war on the continent, the gazettes which accompany this, will give you all the information which we possess. Of the ultimate views of Prussia, under existing circumstances, we know nothing. So far she has followed the example and participated the fortune of Austria, as exhibited in the last campaign, and so far has Austria imitated hers of the same epoch, by viewing with an apparent indifference events which menace the overthrow of both.

We have the honour to be, with great respect, &c.

JAMES MONROE,

WM. PINKNEY.

James Madison, Secretary of State.

*Holland House, Nov. 8, 1806.*

His majesty's commissioners and plenipotentiaries have the honour to represent to the commissioners and plenipotentiaries of the United States :

That the project of an article on the subject of impressing seamen, together with the reasonings, by which the commissioners of the United States have urged the expediency of an arrangement on that subject, has been laid before his majesty's government, and has been considered with the same friendly and conciliatory disposition, which has marked every step of the negotiation.

That his majesty's government has not felt itself prepared to disclaim, or derogate from, a right which has ever been uniformly and generally maintained, and in the exercise of which the security of the British navy may be essentially involved; more especially in a conjuncture when his majesty is engaged in wars, which enforce the necessity of the most vigilant attention to the preservation and supply of the naval force of his kingdom.

That his majesty's government, actuated by an earnest desire to remove every cause of dissatisfaction, has directed his majesty's commissioners to give to Mr. Monroe

and Mr. Pinkney the most positive assurances that instructions have been given, and shall be repeated and enforced, for the observance of the greatest caution in the impressing of British seamen; and that the strictest care shall be taken to preserve the citizens of the United States from any molestation or injury; and that immediate and prompt redress shall be afforded upon any representation of injury sustained by them.

That the commissioners of the United States well know, that no recent causes of complaint have occurred, and that no probable inconvenience can result from the postponement of an article subject to so many difficulties. Still that his majesty's commissioners are instructed to entertain the discussion of any plan that can be devised to secure the interests of both states, without any injury to rights to which they are respectively attached.

That in the mean time the desire of promoting a right conclusion of the proposed treaty, and of drawing closer the ties of connexion between the two countries, induces his majesty's commissioners to express their readiness to proceed to the completion of the other articles, in the confident hope, that the result cannot fail to cultivate and confirm the good understanding happily subsisting between the high contracting parties, and still farther to augment the mutual prosperity of his majesty's subjects and of the citizens of the United States.

VASSAL HOLLAND,  
AUCKLAND.

#### PROJECT.

In order to prevent the vessels of either party from becoming a sanctuary at sea for deserters, from the vessels of the other party, it is expressly stipulated by the high contracting parties, that they will respectively enact laws, whereby it shall be made penal for the commanders or masters of the ves-

#### COUNTER PROJECT.

WHEREAS when the one nation is at war, and the other at peace, it is not lawful for the belligerent to impress or carry off from on board the vessels of the neutral, seafaring persons, who are the native subjects of the neutral, or others who are not the subjects of the belligerent; and whereas, from

sels of either of the parties, who may happen to be in the ports of some third power, or in the ports of one of the parties, with the vessels of the other party, to receive on board and carry to sea [knowing them to be such] the sailors, belonging to, and deserting from such vessels. It is further agreed, whenever the vessels, having on board the sailors who may have so deserted in a neutral port, shall arrive at any port of the party to which they belong, that such party shall cause such deserters to be delivered up, on proper application supported by lawful evidence, to the agent or consul of the other party, who may be duly authorized by his government to act in such cases.

the similarity of the language and appearance, it may be difficult to distinguish the subjects of the two states, the high contracting parties agree, that for the greater security of the subjects of the neutral, they will enact such laws respectively, as shall subject to heavy penalties the commanders of the belligerent ships, who shall impress or carry off the native subjects of the neutral, or others not being the subjects of the belligerent, from on board the neutral vessels, on any pretence whatsoever. And they further agree to enact laws respectively, making it highly penal in the subjects of the neutral to grant any certificates of the birth and country of seafaring persons, without due evidence and proof of the same.

## TRIPPLICATE.

## No. 7.

*London, December 27, 1806.*

SIR,—We have the pleasure to acquaint you that we have this day agreed with the British commissioners to conclude a treaty on all the points which had formed the object of our negotiation, and on terms which we trust our government will approve. It will require only a few days to reduce it to form. When that is done we shall transmit it to you by a special messenger. We hasten to communicate to you this interesting intelligence, for the infor-



mation and guidance of our government in such measures as may have reference to the subject.

We have the honour to be, &c.

JAMES MONROE,  
WILLIAM PINKNEY.

James Madison, Secretary of State,  
Washington.

No. 8.

*London, January 3, 1807.*

SIR,—We have the honour to transmit you a treaty which we concluded with the British commissioners on the 31st of December. Although we had entertained great confidence from the commencement of the negotiation, that such would be its result, it was not until the 27th, that we were able to make any satisfactory arrangement of several of the most important points, that were involved in it. On the next day we communicated to you that event by several despatches, three of which were forwarded by vessels from Liverpool, so that we hope you will receive very early intelligence of it. We commit this, with the treaty, to Mr. Purviance, who we flatter ourselves will have the good fortune to arrive in time to deliver it to you before the adjournment of Congress.

The necessity we feel ourselves under to forward to you the treaty without delay will, we fear, render it impossible for us to enter so fully into the subject of it, as on many considerations it might be proper to do. We are aware that such instruments must be construed by an impartial view of their contents, uninfluenced by extraneous matter. A knowledge, however, of the sense in which the several articles of a treaty were understood by the parties to it, may in most cases be useful. It is also just to remark that some circumstances occurred in the course of this negotiation, which, although they do not appear on the face of the instrument itself, yet as they may have no inconsiderable influence on the future relations of the two countries, it is peculiarly important to explain. We shall endeavour to give such explanations, where they may be necessary, in the best manner that may be found compatible with the despatch which the occasion so imperiously

requires, and we flatter ourselves without omitting any thing on any point that may be deemed of essential importance.

The first article of the present treaty, which stipulates that peace shall subsist between the parties, is taken from that of 1794, and is found in most of the modern treaties.

The second article confirms those of a permanent nature in the treaty of 1794. The British commissioners were very desirous to introduce the permanent articles of that treaty, in the form of new stipulations, into the present one. They insisted with great earnestness, that the article which relates to the trade with the Indian tribes, should be so amended as to admit the traders of Canada and the Hudson Bay company to participate with us in the trade with the tribes in Louisiana. They seemed to admit, that by a fair construction of the article they could not support such a claim, but contended that it was justified by its spirit. Their solicitude on this point, which they had supposed was an unimportant one to the United States, created some embarrassment and delay in the business. They intimated that it proceeded from a desire to conciliate the publick opinion in this country in favour of the treaty, which became necessary in consequence of the concessions which they thought they made us on other points. As we were decidedly of opinion that the article in the treaty of 1794 could not apply to territory afterwards acquired, and could see nothing in its spirit which entitled it to such an extension, and more especially as our instructions contemplated a different result, it was impossible for us to adopt that proposal. They finally agreed therefore, though not without evident reluctance, to the article in its present form.

We regret to say that the third article, which regulates our trade with the British possessions in India, which, with one essential and most unfavourable difference, is the same with the thirteenth article of the treaty of 1794, is not what we had been led to hope it would be practicable to make it. Aware of the importance attached to this commerce in America, we have used the most zealous and persevering efforts not only to prevent the introduction of new restraints upon it, but even to emancipate it from some of those which the treaty of 1794 had distinctly

sanctioned. The India company have, however, been less accommodating than was at first expected, and hence the rejection of all the amendments proposed by us, one of which sought to omit entirely, and (when that was refused) to modify, the proviso copied from the treaty of 1794, that our voyages from the British possessions should be direct to the United States. This amendment, in both its shapes, was repelled in such a manner as to convince us that nothing would be gained by continuing to press it, and we gave it up at length with great reluctance. In this stage of the business, the British commissioners insisted upon an amendment upon their part, by which our voyages to British India were required to be direct from the United States. This unexpected amendment was proposed, at the instance of the India company, after the project of the British commissioners (which, with reference to this subject, was a literal copy of the 13th article of the treaty of 1794) had not only been presented to us, but fully discussed, and, as we understood, settled. The real intention and office of it were said, by lord Holland and lord Auckland, to be no more than to make the article speak unequivocally what was the true meaning of the article in the late treaty. We replied to this, that the article in the late treaty was not susceptible of this limited construction; that its obvious import was that only the voyage from India should be direct; that this had been solemnly adjudged by their own courts of law, and that the practice had been and still continued to be so. We were answered by the production of a paper purporting to be a report of        that in their opinion an American vessel was not entitled to a clearance from a port in Great Britain to Calcutta under the treaty of 1794. We were told moreover, that lord Grenville when he made the treaty, the India company when it sanctioned, and the British government when it ratified it, did not mean to authorize any other than direct voyages, outward, as well as homeward, between the United States and their Indian possessions, and that, if the treaty was liable to any other construction, it arose from mere inadvertence in adjusting the phraseology; but that in truth it was not a fair and natural interpretation of words, which authorized a commerce between two defined limits: that a commerce between one of those limits and some third place was intended to be allowed, although not

a word was said about it in the article. Having given the obvious answer to these suggestions, we urged, as long and as zealously as was thought advisable, the inconveniences to which our trade with India would be subjected by prohibiting any of the modes in which it was prosecuted, as well as the unfriendly appearance of the new restriction, for which there existed no adequate motive. We spoke of the sensibility which would be excited in our country by such an ill-timed and ungracious interference, the interests which it would affect, and the passions which it would enlist against the entire treaty : to all which it was finally answered, that the India company could not be prevailed upon to relax upon this point ; that moreover it ought not to be forgotten that this was a trade from which their own subjects were ordinarily excluded in favour of the company's monopoly ; that this monopoly, as a losing concern, seemed at present to require peculiar protection ; that our admission into British India at all was a boon, for which we did not and could not give any equivalent, and of course that we could not justly complain, if that admission was somewhat qualified with a view to the mitigation of the evils by which it was undoubtedly attended, and which it was not possible wholly to prevent, especially if we were not placed upon a more disadvantageous footing in that respect than other friendly powers, which was so far from being the case, that we were unquestionably admitted by the article, as they proposed to amend it, upon much better terms than any other nation, inasmuch as our commerce (exclusive of the advantage of being secured by treaty) would be subject only to British duties, whereas the Danes and Swedes paid alien duties to a considerable amount, without enjoying any privilege, (whatever might be said to the contrary) to which we were not equally entitled. We were at last reduced to the necessity of accepting the article with the obnoxious amendment, rendered less obnoxious, perhaps, by the clause relative to the most favoured nation, or making a treaty without any article upon the subject, which would have the same, and probably worse effects, or of making no treaty at all. We preferred the first.

The fourth and fifth articles regulate the trade between the United States and the British possessions in Europe. By these we are persuaded that much greater satisfaction

will be given to our government and country, than by the preceding one. The three first clauses of the fifth article, which place the vessels and merchandise of each country in the ports of the other, in respect to duties and prohibitions, on the footing of the most favoured nation, are taken from the treaty of 1794. To these we were not aware that any well founded objection was ever made. But the subsequent clauses give a new character to this intercourse. The right which the British government reserved by the treaty of 1794, to impose a tonnage duty on American vessels equal to the duty which was payable on British vessels in the United States, is by the first of these clauses made reciprocal. Under that reservation, or rather as we presume the pretext of it, the British government had actually imposed a tonnage duty on American vessels of 6*s.* 5*d.* per ton, being almost three times the amount of the duty which was payable on British vessels in the United States. And as the United States had expressly stipulated not to raise the duty on British vessels higher than it then was, it was out of their power, without a palpable violation of that stipulation, to countervail the duty imposed by Great Britain on American vessels. But, by making the reservation reciprocal, the United States have an unquestionable right to raise the duty on British vessels to the same level, wherever that may be. And by confining the reciprocity strictly to the principle of national equality, that is, an equality of tonnage duties which shall be payable on the vessels of each party in the ports of the other, a right is reserved by each to give what preference it thinks fit, within that limit, to its own vessels and people. At present such preference is given by our law to the amount of 44 cents per ton, which is not only protected by this clause against any countervailing measure, other than by lessening the duty, but the right is secured to increase it in the degree above stated. By this we do not wish to imply that it would be advisable to take all the advantage of this circumstance which the article admits of. The presumption is, that the British government will, in case the treaty is ratified, repeal the additional duty on American vessels, which will leave them charged in common with their own, and those of every other nation, with the sum of 4*s.* 5*d.* per ton. Should our government think proper to raise the duty on British vessels to the same



point, it may, perhaps, be advisable not to increase the present discrimination. The last clause of this article, which stipulates that the same duties of exportation and importation shall be paid on all goods and merchandise, and that the same drawbacks and bounties shall be allowed in both countries, whether the same be in British or American vessels, will, it is also hoped, be found of very essential advantage to the United States. The right which Great Britain had reserved by the treaty of 1794, to countervail the difference of duty payable in the United States on European and Asiatick goods, when imported in British or American vessels, had been productive of very serious injury. The duties which had been imposed by the British government on American productions, on that principle, were so high, making in most cases a difference of shillings per ton in favour of British vessels, that it must have been impossible, in peace, for our navigation to have borne it. The evil was the greater, because the species of commercial warfare in which it engaged us, in consideration of the comparative value and bulk of the articles subject to it in each country, furnished no remedy. On the contrary, as the principle was unfavourable, the farther it was carried, the worse would be its effect. By this clause it is presumed that the evil will be completely done away, while we flatter ourselves that the stipulation in favour of drawbacks and bounties, without exposing us to any inconvenience, will be productive of some advantage.

It is proper to remark that we did not omit to propose an arrangement on the subject of export duties, by which the United States should at least be placed in that respect upon the footing of all other nations. The discrimination to our prejudice in the British duties on exportation, which took their rise in the convoy duty of the last war, has undoubtedly an unkind and oppressive effect. This discrimination is found in the 43. Geo. 3, ch. 68, a permanent act, (which repealed the then existing duties, and substituted others) and in the 43. Geo. 3, ch. 70, which imposes additional duties during the present war. Taking the war duty and the permanent duty together, the consumers in the United States of certain British manufactures [for the duties in question apply only to British manufactures, and not to all of them; British cotton yarn and manufactures,



and some other articles being excepted] pay two and a half per cent. *ad valorem* more than the consumer in Europe, or within the straits, pays on the same goods.

The only mode in which it could be supposed to be possible, that this unpleasant distinction could be removed, was by applying to the subject the rule of the most favoured nation. Great Britain was not likely in her present situation to stipulate against all export duties, or even to agree to a maximum. Neither was she likely, by considering the actual duties as originally, and even now convoy duties, and therefore in their principle applicable only to the navigation which her convoys protect, to relieve from them, wholly or in part, such merchandise as should be carried to our country in American vessels, and leave them to oppress her own tonnage; thus offering a bounty in favour of American ships against her own. The rule of the most favoured nation was therefore finally suggested, with a hope that it would meet with no objection. It was, however, perseveringly opposed. We were told that the single effect of such an arrangement would be to compel Great Britain to raise the export duties against other countries, not to reduce them as to us, and that this would be of no advantage to the United States, but might be a serious embarrassment to Great Britain. It was urged on our part, that, if Great Britain could not give up entirely the excess of export duty, now paid by us, it did not follow that it might not be fairly distributed among the consumers of her merchandise in every part of the world, so as still to produce the same revenue with more regard to justice; that, as her best customers, we had a right to be placed upon at least an equal footing with other nations, and to complain if we were rather distinguished by the peculiar burdens which she undertook to impose upon us; that the discrimination against us, upon the notion that the duty had reference to convoy, was a fallacy, since part of the discrimination was permanent, and of course a peace, as well as a war duty; since we, who paid the duty, derived no benefit from the convoy, which was professed to be the consideration of it; and since the protection of their own trade in their own navigation, being a general and national concern, there was no sound reason why the relative expense of particular convoys should be allowed to suggest the relative measure of the duties, which were to supply

the means of affording them. They replied to the idea of distributing the amount of the discrimination among all the consumers of their merchandise, by referring us to the present state of Europe. They reminded us that their own colonies in America paid the same export duty that was paid by us, and repeated, that as it was only the discrimination between the United States and Europe, of which we could have any right to complain, we could not demand to have any part of the duty against which we remonstrated, withdrawn from us, and that we could gain nothing by forcing this country to add to the burdens of others, already overwhelmed and impoverishing by the calamities of war. We were obliged, though very reluctantly, to abandon this object.

The sixth article relates to the commerce with the West Indies, which it was found impossible to arrange in a satisfactory manner. There were many serious obstacles to an agreement on this point, some of which seemed to be peculiarly applicable to the present time. The British West India merchants had at an early stage represented, that by the trade which our citizens enjoyed with the colonies of their enemies, we had so completely stocked the markets of the continent with West India productions as to shut those markets on them. They had remonstrated earnestly against any arrangement of that point which should sanction, in any degree, our trade with those colonies. This question had taken deep hold of the minds of a great proportion of this community, among whom may be classed, not those in the mercantile line only, who were immediately engaged in the trade, but the whole commercial interest, and many in other circles of great consideration in the country. Of this fact sufficient proof was furnished by the debate which took place in the last session of parliament, on the bill for regulating the intercourse between the United States and the West Indies. The British commissioners seemed to have taken from that debate, more especially from the support which their opponents apparently received from the publick in it, a very strong admonition not to touch the subject by treaty at this time. They were apprehensive that any regulation of this trade, however fair it might be, which should accompany their sanction of that with the colonies of their enemies, would produce the worst effect with all parties.

and endanger any treaty which might be formed. They were, therefore, desirous of postponing the subject for the present; to which we agreed. In the stipulation which provides for the postponement, we have, as you will perceive, in conformity with our instructions, reserved the right to our government to counteract any regulations by which the British government may exclude us from a fair participation in that commerce. While the war lasts we shall enjoy it in a certain degree, with the consent of the British government, by necessity. And the reservation cannot fail to be considered by it as a powerful weapon of defence, to be used when occasion calls for it. It must be seen that it will be impossible for the Congress to prohibit an intercourse between the United States and the West Indies, in British vessels, without producing a very serious effect on their whole navigation and commercial interests. We flatter ourselves, therefore, that it may be found practicable, and perhaps not difficult, to arrange this business hereafter to the satisfaction of both countries.

The seventh article relates to the appointment of consuls by each party in the territories and ports of the other. It was taken from the treaty of 1794.

The 8th article, which specifies the causes for which vessels may be captured or detained, including among them the circumstance of their having enemies' property on board, is (except the last clause) a transcript of the seventeenth article of the treaty of 1794. The stipulation contained in that clause, that the parties shall be allowed adequate damages and charges of the trial in all cases of unfounded detention or other contravention of the regulations of the present treaty, will, we presume, produce the salutary effect contemplated by it. There is, perhaps, no principle in the maritime pretensions of this country, which has been more abused in practice, than that which this provision is intended to remedy. That damages should be allowed in all such cases is, it is true, a doctrine recognised by the court of admiralty. It cannot, however, be doubted that, by providing for them in the treaty, the obligation to allow them will acquire greater force with the court, and even the government itself, while it cannot fail to give an useful admonition to the cruisers.

The ninth article regulates what shall be deemed contraband of war. You will observe that tar and turpentine, except when destined to a place of naval equipment, are not comprised in it, and that provisions are altogether omitted. We endeavoured to exclude from it naval stores, but without effect. We succeeded, however, in exempting the vessel on the return voyage, after depositing her cargo at the port of her destination, from being detained on the pretence that it consisted of contraband articles.

The provision in the tenth article, relative to vessels sailing without knowledge of a blockade, is somewhat altered from the treaty of 1794. The precise effect of the change cannot perhaps be pronounced with certainty; but it seems to be clear that it cannot be otherwise than advantageous. The alterations consist in the introduction into the preamble of "the distance and other circumstances incident to the situation of the contracting parties," and of the word "such" into the provision which follows. The first amendment appears to justify an inference, that, on account of the peculiar circumstances, local and relative, thus recited as the reasons why, in the opinion of the contracting parties, "it may frequently happen that vessels may sail for a port or place without knowing that it is besieged, blockaded, or invested," our vessels ought not to be liable to be judicially affected with knowledge of a blockade, so as to subject them to penalty, by the evidence usually held to be sufficient for that purpose. Sir W. Scott decided in 1799, that, in consequence of the distance of the United States from Europe, we were entitled to a more favourable rule in that respect than other countries, and our article may be fairly considered as adopting that idea and acting upon it. On the foundation of the single fact of distance, sir W. Scott justified a conjectural destination from America to Amsterdam, although the blockade of that port had been notified; and the parties concerned were proved to have known of the commencement of it. The article, as it now stands, seems necessarily to imply at least the same indulgence; and, if it does, it certainly goes farther than sir W. Scott's opinion, which does not admit that an inquiry can be made of the blockading force, as our article unquestionably does, in the cases to which it applies. It does not appear to be unreasonable to hold,

that, a peculiar motive being now assigned in the preamble for the provision which it introduces, a correspondent peculiar effect is contemplated by that provision ; and no such effect can follow from it, if it be not that [as our distance makes it impossible “ that we should have constant information of the state of the blockade, whether it continues or is relaxed”] the mere notification of the blockade, or even the knowledge that the blockade has been commenced *de facto*, shall not be sufficient to make the destination illegal, but that, notwithstanding such notification or knowledge, we shall receive warning at the port or place blockaded. The words “ without knowing that the same is either besieged, blockaded, or invested,” will admit of this interpretation, since, by reason of our distance, it may in our case be truly said [and has in substance been judicially said] to be one thing to know that a blockade has been notified or instituted, and another that it continues. We endeavoured, without success, to obtain the consent of the British commissioners to the article proposed in your project. They would only agree, as you will perceive, to take its preamble, and engraft it upon the article of 1794, observing that this would give to that article a new and more favourable, though certainly an undefined character ; and that, at a moment when their maritime efforts in this mode of hostility might more than ever become indispensable to the national safety, it was impossible to do more. We pressed them long and earnestly to connect with the clause a definition of blockade, to which, in the early stages of our negotiation, it was believed there would be no objection. We found them, however, decidedly averse from such a definition by treaty, notwithstanding the precedent afforded by lord St. Helen’s convention with Russia. They maintained that the British doctrine was already as explicit on this point as any definition could make it : that it was difficult, if not impracticable, to agree upon one which should be at the same time accurate and complete ; that the clause in its present form would do much towards the accomplishment of our object ; and that what remained it would be in their power, as it certainly was in their inclination, to supply, as effectually as in the treaty itself, by taking occasion to state, in a letter which it was intended should be delivered to us on their part at the time of the signature of the treaty, which you



will hereafter find explained, the theory and practice of the British government on this subject.

This reasoning was in no degree satisfactory, and it was resisted accordingly, but without effect. The proposed substitute for a definition by treaty might be of some value, and was not therefore opposed; but it was obvious that it would be greatly impaired, if not wholly destroyed, by the nature of the letter, of which we had received a full explanation, and in which the suggested statement was to be inserted.

The eleventh article regulates the great question of our commerce with enemies' colonies, the interruption of which was one of the principal causes of the late disagreement between the two countries. We trust that the compromise which has been made on this point will be advantageous to our commercial interest, and satisfactory to our government. The British commissioners were very desirous of burdening this intercourse with several severe restrictions, to place, as they did not hesitate to state, their own merchants on an equal footing, in the great markets of the continent, with those of the United States. With that view, and to settle all questions concerning the continuity of the voyage, they proposed that all articles of West India produce should be stored in the United States for the term of one month, be transported thence to Europe in another ship from that in which they were brought, and be likewise subjected to a duty of at least four per cent. on re-exportation. They finally agreed, however, to relinquish all these pretensions, except the landing of the goods in the United States, and the payment [by which is understood the securing of the payment in the mode prescribed by our law] of one per cent. on such European articles as may be carried thence to the colonies, and of two per cent. on such West India productions as may be carried to Europe, including the parent and every other country. We are persuaded that this arrangement will be attended with less inconvenience to the parties than the other restrictions above mentioned, or either of them. The storing of the goods especially for a month seemed to be peculiarly objectionable, as it would have subjected us to a serious injury, without being attended with any circumstance to alleviate the regret inseparable from it. We flatter ourselves that the sum agreed to be paid will not be felt as a heavy



one on our merchants, whose patriotism will be gratified by the recollection that the duty which they pay will redound to the advantage of their country. By the compromise which is made the practical enjoyment of the rights of each party is forborne, in the manner stated and for the term specified, while the rights themselves are reserved. The stipulation, being in the form of a concession on the part of Great Britain, is intended to mitigate her principle where it applies, but in no respect to enlarge the sphere of its operation. No judicial decision of the court of admiralty in this country has hitherto extended the British principle to enemies' colonies in the East Indies, and it is understood that it does not apply to the greater part, if to any of them. Some cases are depending before it from the vice admiralty courts of Halifax and Columbo, which will bring the point into question. Should the opinion of the court be that the principle is applicable to the colony to which the cause relates, then the party will have the advantage of the provision contained in this article ; should it on the contrary decide that it does not apply to such colony, then the trade between it and the parent country will be free. This view of the subject was entertained equally by the British commissioners and ourselves, and is that, as they assure us, which the court of admiralty will adopt in its decisions. We endeavoured to exempt this branch of the trade with enemies' colonies from the operation of the British principle ; but that was found to be impracticable. We flatter ourselves that the arrangement made respecting it will be deemed the next most eligible one that could have been adopted, and that it will produce in practice, in a great measure, if not altogether, the same effect.

The twelfth article establishes the maritime jurisdiction of the United States to the distance of five marine miles from their coast, in favour of their own vessels and the unarmed vessels of all other powers who may acknowledge the same limit. This government contended that three marine miles was the greatest extent, to which the pretension could be carried by the law of nations, and resisted, at the instance of the admiralty and the law officers of the crown in doctors commons, the concession which was supposed to be made by this arrangement, with great earnestness. The ministry seemed to view our claim in the light

of an innovation of dangerous tendency, whose admission, especially at the present time, might be deemed an act unworthy of the government. The outrages lately committed on our coast, which made some provision of the kind necessary, as an useful lesson to the commanders of their squadrons, and a reparation for the insults offered to our government, increased the difficulty of obtaining any accommodation whatever. The British commissioners did not fail to represent that which is contained in this article as a strong proof of a conciliating disposition in their government towards the government and people of the United States. The limit established was not so extensive as that which we had contended for, and expected to have obtained. We persuade ourselves, however, that the great object which was contemplated by any arrangement of the subject will result from that which has been made. The article in the treaty, in connexion with the causes which produced it, forms an interesting occurrence in the history of our country, which cannot fail to produce the most salutary consequences. It is fair to presume that the sentiment of respect which Great Britain has shown by this measure for the United States, will be felt and observed in future by her squadrons, in their conduct on our coast, and in our bays and harbours. It is equally fair to presume that the example of consideration which it affords in their favour by a nation so vastly preponderant at sea, will be followed by other powers.

By the thirteenth article it is agreed that the sum for which bonds shall be given by the commanders of privateers, before they receive their commissions, to indemnify those who shall be injured by their misconduct, shall be increased to a greater amount than was required by the 19th article of the treaty of 1794. It is also enjoined in stronger and more definite terms on the belligerent in this than in the former article, to see that its ships of war and privateers shall observe, in a manner the most favourable to neutrals, the acknowledged principles and rules of the law of nations, in the search of merchant vessels. We endeavoured to obtain an arrangement more adequate to the object, and relinquished the pursuit of it with regret. While the subject of visitation and search was under consideration, the British commissioners assured us that their government would regulate it in a

satisfactory manner to the United States by act of parliament, especially in respect to privateers, which assurance was repeated when the treaty was signed.

The following articles, to the twenty first inclusive, are taken from the treaty of 1794. The British commissioners showed a desire to retain them, and as it appeared that they had in substance been introduced into the treaty with France, of 1801, and that an attempt on our part to omit them would be thought unaccommodating and captious, we agreed to them.

The twenty-second article contains a new and useful provision in favour of the unfortunate in the case of shipwreck.

The twenty-third article, after declaring that it is the intention of the high contracting parties that the people of their respective dominions shall be on the footing of the most favoured nations, stipulates that in case either of the parties shall hereafter grant any additional advantages in navigation or commerce to any other nation, the citizens or subjects of the other party shall fully participate in them. This article is deemed peculiarly important in many views, but more especially in its application to the British possessions in the East Indies. If it can be shown that any peculiar accommodation is or shall be hereafter granted to any other powers, we become entitled to it of course.

The twenty-fourth article engages that the parties shall communicate to each other the laws which their respective legislatures may enact for the abolition or limitation of the African slave trade, and that they will also use their best endeavours to procure the co-operation of other powers for the complete abolition of that trade. As this engagement reposes on our laws, it follows that it does not enjoin any obligation unknown to them. If it should be acted on at all by our government, farther than by communicating to this the laws of Congress, as is proposed in the first part of the article, the sphere of its operation would be a very contracted one, till the year 1808. After that period such a co-operation on a more enlarged scale would become a constitutional measure of the government, and, as we think, a suitable one. Mr. Fox had taken great interest in this question, and it is understood that in suggesting the idea, in the address of the house of

commons to the king, of obtaining the co-operation of other powers, the United States were held particularly in view. The British commissioners proposed the article, and showed great desire that we should agree to it. As this stipulation was not comprised within the scope of our instructions, we have thought it our duty to explain to you the cause to which its admission into the treaty is to be attributed.

The twenty-fifth article was introduced for the purpose of protecting other powers, having treaties with either party, in the enjoyment of the rights secured by them. The stipulation contained in our treaty with France, in 1803, of certain commercial privileges in favour of French and Spanish subjects for a defined term in Louisiana, made such a provision particularly necessary.

The twenty-sixth article fixes the term of the treaty at ten years from the date of the exchange of the ratifications.

We are sorry to add that this treaty contains no provision against the impressment of our seamen. Our despatch of the 11th of November communicated to you the result of our labours on that subject, and our opinion that, although this government did not feel itself at liberty to relinquish, formally by treaty, its claim to search our merchant vessels for British seamen, its practice would, nevertheless, be essentially if not completely abandoned. That opinion has been since confirmed by frequent conferences on the subject with the British commissioners, who have repeatedly assured us, that, in their judgment, we were made as secure against the exercise of their pretension by the policy which their government had adopted in regard to that very delicate and important question, as we could have been made by treaty. It is proper to observe, however, that the good effect of this disposition, and its continuance, may depend in a great measure on the means which may be taken by the Congress hereafter to check desertions from the British service. If the treaty is ratified, and a perfect good understanding produced by it between the two countries, it will be easy for their governments, by friendly communications, to state to each other what they respectively desire, and in that mode to arrange the business as satisfactorily as it could be done by treaty.

We regret also to be under the necessity of stating that no provision has been made by the treaty to indemnify our citizens for the losses by the late seizures, and other violations of the law of nations. This object engaged our attention in every stage of the negotiation, and was not abandoned by the signature of the treaty. On the day it was signed, we stated in explicit terms to the British commissioners, that we could not conclude, without having a satisfactory assurance, by them, of the part their government intended to take, equally in regard to the vessels and cargoes which had been condemned, and the suits that were depending. The principle established in the correspondence between Mr. King and lord Hawkesbury, we admitted should form the boundary of our claim, in respect to the seizures for an imputed illegal trade ; for every violation of which, in cases of condemnation, we expected a full indemnity, and a dismissal of all the causes still depending that were protected by it. The British commissioners observed, that it was neither their wish nor expectation that we should relinquish our claim ; on the contrary, they were willing we should preserve it : with which view they proposed that we should present them a paper, bearing date prior to the signature, which should make the reservation in such form as we thought best suited to the object. They intimated that, in cases of vested right, it was not in the power of their government to interfere to the prejudice of the parties, and that it would be hard on the government, and unpopular in the ministry, to apply the publick money to such a purpose ; still they said nothing to preclude that expectation ; on the contrary, they encouraged it, and were still more explicit in suggesting that the depending cases would not be unfavourably adjudged. They seemed desirous that, while we should reserve our claim, their government should retain a right to pursue such a course of conduct in regard to it as might be dictated hereafter by circumstances. To enter into an engagement in favour of our claim in the present state of things, appeared to them as being likely to expose their government to the imputation of having done it by coercion, and to deprive it of a claim to any merit for such an accommodation as it might, under other circumstances, be disposed to yield. Should the circumstances of collision which had taken place between the two countries be done



away, and their commerce and friendly relations be re-established, as they hoped was already in a great measure done, and would be so completely by this treaty, their government, they thought, would feel itself more at liberty to yield accommodations on this topick than in the actual state. This was the substance of the communication made us on this subject by the British commissioners before the signature of the treaty, on which, and our declaring explicitly that we would reserve the right in the manner they had proposed, in full confidence that their government would respect it, we proceeded to sign the treaty. We have had an interview with the British commissioners since the signature, and were happy to find that they had not forgotten what had passed between us on that occasion. We had asked the interview, as we informed them, for the purpose of conferring on this subject, and of obtaining their sentiments in so distinct a form as to leave us under no embarrassment in the communication it was our duty to make to you on it. Nothing passed in this interview, on their part, to change the ground on which the business had been placed in the former one. They intimated, however, that it might be advantageous, and would certainly be proper for us, in the present stage, to confer with lord Howick on this subject, since any declaration from him could not fail, according to its import, to merit the peculiar attention of our government. We have accordingly seen and conferred with lord Howick upon this topick, whose sentiments appeared to correspond strictly with those which had been delivered to us by the British commissioners. He intimated, however, that it would be better for us to address the note which should contain a reservation of our rights to indemnity, to him than to the commissioners, to which we assented, as we could not perceive that that circumstance would make any difference in the case. We are engaged in preparing this paper, which we expect to present to his lordship in a few days, though we fear it will not be ready in time to enable us to obtain his answer to it to be forwarded to you with this despatch. We shall not fail to communicate to you, without delay, whatever may occur on this subject. We think it our duty, however, to add, that we do not wish our government to be too sanguine in the expectation of a satisfactory result. In the deliberations on this subject, it may, perhaps, be



better to presume that such a one may not be obtained, as it is not provided for in the treaty. The above statement is nevertheless perfectly correct, and we beg you to be assured, that we shall continue to exert our best endeavours to secure an object which we consider of so much importance. We shall send you a statement of the cases of condemnation, and of the causes still depending, which is less extensive in both views than may have been supposed.

It happened, when the negotiation had reached a very advanced stage, that an account was received here of the decree of the emperor of the French at Berlin, of November 21, which declared Great Britain and Ireland in a state of blockade, and all British manufactures and the produce of British colonies lawful prize. This circumstance produced a strong impression on this government, which was very seriously felt in our concerns. It seemed probable for some days that it would subject the negotiation to a long suspension, if it did not entirely defeat its object. The British commissioners informed us, that the decree of the government of France had opposed a powerful obstacle to the conclusion of any treaty with us, before our government should be consulted on the subject, and its answer obtained as to the part it might take in regard to it: that in case the United States submitted to a violation of their neutral rights by France in the manner contemplated by that decree, it would be impossible for Great Britain to respect them; that by concluding a treaty with the United States, by which they should not only bind themselves to the observance of such rights, but agree to concessions or relaxations of what they conceived to be their unquestionable rights of war, after knowing the contents of that decree, they might be understood to restrain themselves from counteracting the policy of France, which it would be improper to do, unless our government should engage to support its rights against the measures of France. In consideration of these circumstances, they proposed that we should proceed in the business so far as to agree on all the articles of the treaty, to reduce them to form, and then transmit the instrument to the United States, to become obligatory in case our government should enter into a satisfactory engagement of the kind proposed. We replied in very explicit terms to the

British commissioners that we considered their proposition altogether inadmissible on our part, and not likely to accomplish, if we could agree to it, the object which they contemplated by it: that such a proposition to our government, under the circumstances attending it, would amount, in substance, to an offer to it of the alternative between the treaty and a war with France, since, if our government refused to give the satisfaction which they desired, the treaty would be lost: and if such satisfaction was given and the treaty concluded, and France should persist to execute her decree according to the construction given of it here, war seemed to be inevitable: that if it should happen that our government should approve the treaty, it was not to be presumed that it would make any sacrifice, or stipulate any thing not contained in the instrument, especially so very important an act as that alluded to, as the condition on which it was to be obtained; that the arrangement of our differences and other concerns with Great Britain was an affair which rested on its own ground, and had no connexion with our relations with France; that his majesty's government ought to suppose that the United States would not fail in any case to support with becoming dignity their rights with any power, and that it must be sensible that it would be more at liberty to enter into suitable friendly explanations with the government of France, on the subject of the decree in question, after the adjustment of their differences with Great Britain, than while they existed, as it likewise must be, that the prospect of obtaining satisfactory explanations on that point of France would be better while they acted under their own impulse as an independent and friendly power, than it would be in case they entered into an engagement of the kind proposed with her adversary. The British commissioners admitted, that these considerations were entitled to much attention: at length, however, after the subject had been, as we had reason to believe, maturely weighed in the cabinet, they informed us that their government still thought it incumbent on it to make a reservation of their right to counteract the policy of France, in case our government did not give them the satisfaction they desired, either by suitable assurances before the ratification of the treaty, or by its conduct afterwards. With this view they presented us a paper which we have the ho-

nour to transmit with this despatch. In transmitting to you this paper, it is our duty to observe that we do not consider ourselves a party to it, or as having given it in any the slightest degree our sanction. The incident which produced the paper was unexpected on our part, and without entering into its merits, we used our best exertions to diminish its effect in relation to the objects of our negotiation. The British commissioners brought the incident into view, and made it the subject of discussion in the manner above stated, as they did the part which it became their government to take in the depending negotiation in consequence of it. We therefore thought, not only that we were at liberty, but that it was imperiously our duty, to use our best exertions to make the paper which they proposed to present to us, in reference to the decree of France, as little injurious as possible, and even to urge that decree as a strong reason why Great Britain should be more explicit and satisfactory in her definition of neutral rights, as well for the purpose of vindicating herself against the strong denunciation it contained, as to enable our government to urge with more force with the government of France its objections to the decree. We were glad to find that these remarks were not altogether without effect, as will appear by the paper referred to, especially the definition it gives of a blockade, which is tolerably correct.

You will observe, that the commerce between the United States and the British colonies, which bound them to the east and north, has not been regulated by this treaty. The British commissioners refused to agree to any arrangement of it, in consequence of our declining to admit their Canada and Hudson bay traders into Louisiana. It has occurred to us, that it might be advantageous to the United States, and consistent with the views of our government, to comprise both these objects, under suitable regulations, in a separate convention, especially if they can be made instrumental to a satisfactory establishment of our boundaries. We have reason to think, that in the form of a new act, in connexion with these other objects, it would be more agreeable to this government to settle the question of boundary, according to the views of the President and Senate, than by ratifying the convention already entered into, with the exception of the 5th article. The British commissioners have expressed their willingness to pro-

ceed in the business, for the purpose of arranging all these topicks in a satisfactory manner, as lord Howick has likewise done; and it seems highly important to take advantage of this disposition, to settle amicably with this government, at the present time, every remaining cause of strife, so far as it may be practicable. Should we undertake to form such a convention, the commercial part of it will of course be limited to the same term, not to exceed that of the treaty. We shall also be attentive to the conditions on which the traders with the Indian tribes are to be admitted into Louisiana, by being particularly careful that it be done on such conditions as to render it impossible for them to do any injury. We are persuaded that such regulations might be adopted, as would, even at this time, have that effect. We are confident, that our population will have so far spread over the whole surface of that country, by the time the treaty would expire, as to supersede the necessity of renewing it.

We have the honour to be, with great consideration, &c.

JAMES MONROE,  
WM. PINKNEY.

## TREATY

OF AMITY, COMMERCE AND NAVIGATION, BETWEEN HIS BRITANNICK MAJESTY AND THE UNITED STATES OF AMERICA.

HIS Britannick majesty and the United States of America, being equally desirous to promote and perpetuate the good understanding and friendship which happily subsist between the subjects of the united kingdom and the citizens of the United States, and for that purpose to regulate the commerce and navigation between their respective countries, territories and people, on the basis of reciprocity and mutual convenience, have respectively named their plenipotentiaries, and have given to them full powers to make and conclude a treaty of amity, navigation and commerce, that is to say, his Britannick majesty has named for his plenipotentiaries, Henry Richard Vassall lord Holland, one of his majesty's privy council, and lord keeper of his majesty's privy seal, and William lord Auckland, one of his majesty's privy council, and president of the committee of council for all matters of trade and foreign

plantations: and the President of the United States, by and with the advice of the Senate thereof, hath appointed for their plenipotentiaries, James Monroe and William Pinkney, commissioners extraordinary and plenipotentiaries; who, after having exchanged their respective full powers, have agreed on the following articles.

ARTICLE I. There shall be a firm, inviolable and universal peace, and a true and sincere friendship between his Britannick majesty, his heirs and successors, and the United States of America, and between their respective countries, territories, cities, towns and people, of every degree, without exception of persons or places.

ART. II. It is agreed that the several articles of the treaty of amity, commerce, and navigation, between his majesty and the United States, made at London, on the 19th day of November, 1794, which have not expired, nor as yet had their full operation and effect, shall be confirmed in their best form, and in their full tenour; and that the contracting parties will also, from time to time, enter into friendly explanations on the subject of the said articles, for the purpose of removing all such doubts as may arise, or have arisen as to the true import of the same, as well as for the purpose of rendering the said articles more conformable to their mutual wishes and convenience.

ART. III. His majesty agrees that the vessels belonging to the United States of America, and sailing direct from the ports of the said states, shall be admitted and hospitably received in all the seaports and harbours of the British dominions in the East Indies; and that the citizens of the said United States may freely carry on a trade between the said territories and the said United States, in all articles of which the importation or exportation respectively, to or from the said territories, shall not be entirely prohibited. Provided, only, that it shall not be lawful for them, in any time of war between the British government and any other power or state whatever, to export from the said territories, without the special permission of the British government there, any military stores, or naval stores or rice. The citizens of the United States shall pay for their vessels, when admitted into the said ports, no other or higher tonnage than shall be payable on British vessels, when admitted into the ports of the United States. And they shall pay no higher or other duties or charges on the



importation or exportation of the cargoes of the said vessels, than shall be payable on the same articles when imported or exported in British vessels. But it is expressly agreed, that the vessels of the United States shall not carry any of the articles, exported by them from the said British territories, to any port or place, except to some port or place in America, where the same shall be unladen, and such regulations shall be adopted by both parties, as shall from time to time be found necessary to enforce the due and faithful observance of this stipulation.

It is also understood, that the permission granted by this article, is not to extend to allow the vessels of the United States to carry on any part of the coasting trade of the said British territories; but the vessels going with their original cargoes or part thereof, from one port of discharge to another, are not to be considered as carrying on the coasting trade. Neither is this article to be construed to allow the citizens of the said states to settle or reside within the said territories, or to go into the interior parts thereof, without the permission of the British government established there; and if any transgressions should be attempted against the regulations of the British government in this respect, the observance of the same shall and may be enforced against the citizens of America, in the same manner as against British subjects or others transgressing the same rule. And the citizens of the United States, whenever they arrive in any port or harbour in the said territories, or if they should be permitted in manner aforesaid to go to any other place therein, shall always be subject to the laws, government, and jurisdiction of whatever nature, established in such harbour, port, or place, according as the same may be. The citizens of the United States may also touch for refreshment at the island of St. Helena, but subject in all respects to such regulations as the British government may from time to time establish there.

ART. IV. There shall be, between all the dominions of his majesty in Europe, and the territories of the United States, a reciprocal and perfect liberty of commerce and navigation. The people and inhabitants of the two countries respectively shall have liberty, freely and securely, and without hindrance and molestation, to come with their ships and cargoes to the lands, countries, cities, ports,



places, and rivers, within the dominions and territories aforesaid, to enter into the same, to resort there, and to remain and reside there, without any limitation of time, also to hire and possess houses, and warehouses, for the purposes of their commerce; and generally, the merchants and traders on each side shall enjoy the most complete protection and security for their commerce, but subject always, as to what respects this article, to the laws and statutes of the two countries respectively.

ART. V. It is agreed that no other or higher duties shall be paid by the ships or merchandise of the one party in the ports of the other, than such as are paid by the like vessels or merchandise of all other nations. Nor shall any other or higher duty be imposed in one country on the importation of any articles, the growth, produce, or manufacture of the other, than are or shall be payable on the importation of the like articles, being of the growth, produce, or manufacture of any other foreign country.

Nor shall any prohibition be imposed on the exportation or importation of any articles to or from the territories of the two parties respectively, which shall not equally extend to all other nations. But the British government reserves to itself the right of imposing on American vessels entering into the British ports in Europe, a tonnage duty equal to that which shall at any time be payable by British vessels in the ports of America; and the government of the United States reserves to itself a right of imposing on British vessels entering into the ports of the United States, a tonnage duty equal to that which shall at any time be payable by American vessels in the British ports in Europe.

It is agreed, that in the trade of the two countries with each other, the same duties of exportation and importation on all goods and merchandise, and also the same drawbacks and bounties, shall be paid and allowed in either country, whether such importation or exportation shall be in British or American vessels.

ART. VI. The high contracting parties not having been able to arrange at present by treaty, any commercial intercourse between the territories of the United States and his majesty's islands and ports in the West Indies, agree that until that subject shall be regulated in a satisfactory

manner, each of the parties shall remain in the complete possession of its rights, in respect to such an intercourse.

ART. VII. It shall be free for the two contracting parties respectively, to appoint consuls for the protection of trade, to reside in the dominions and territories aforesaid; and the said consuls shall enjoy those liberties and rights which belong to them by reason of their function. But, before any consul shall act as such, he shall be in the usual form approved and admitted by the party to whom he is sent; and it is hereby declared to be lawful and proper, that in case of illegal or improper conduct towards the laws or government, a consul may either be punished according to law, if the laws will reach the case, or be dismissed, or even sent back, the offended government assigning to the other the reasons for the same.

Either of the parties may except from the residence of consuls, such particular places as such party shall judge proper to be so excepted.

ART. VIII. It is agreed, that in all cases where vessels shall be captured or detained on just suspicion of having on board enemy's property, or of carrying to the enemy any of the articles which are contraband of war, or for other lawful cause, the said vessel shall be brought to the nearest or most convenient port; and if any property of an enemy should be found on board such vessel, that part only which belongs to the enemy, or is otherwise confiscable, shall be made prize, and the vessel, unless by law subject to condemnation, shall be at liberty to proceed with the remainder of the cargo without any impediment. And it is agreed, that all proper measures shall be taken to prevent delay in deciding the cases of ships or cargoes so brought in for adjudication, and in the payment or recovery of any indemnification adjudged or agreed to be paid to the masters or owners of such ships.

It is also agreed, that in all cases of unfounded detention, or other contravention of the regulations stipulated by the present treaty, the owners of the vessel and cargo so detained shall be allowed damages proportioned to the loss occasioned thereby, together with the costs and charges of the trial.

ART. IX. In order to regulate what is in future to be esteemed contraband of war, it is agreed that under the said denomination shall be comprised all arms and imple-

ments serving for the purposes of war, by land or by sea, such as cannon, muskets, mortars, petards, bombs, grenades, carcasses, saucisses, carriages for cannon, musket rests, bandoliers, gun powder, matches, saltpetre, balls, pikes, swords, head-pieces, cuirasses, halberts, lances, javelins, horse furniture, holsters, belts, and generally all other implements of war; as also timber for ship building, copper in sheets, sail cloth, hemp, and cordage, and in general (with the exception of unwrought iron and fir planks, and also with the exception of tar and pitch, when not going to a port of naval equipment, in which case they shall be entitled to pre-emption) whatever may serve directly to the equipment of vessels; and all the above articles are hereby declared to be just objects of confiscation, whenever they are attempted to be carried to an enemy. But no vessel shall be detained, on pretence of carrying contraband of war, unless some of the above mentioned articles, not excepted, are found on board of the said vessel at the time it is searched.

ART. X. Whereas in consideration of the distance and of other circumstances incident to the situation of the high contracting parties, it may frequently happen that vessels may sail for a port or place, belonging to an enemy, without knowing that the same is either besieged, blockaded, or invested, it is agreed, that every vessel so circumstanced may be turned away from such port or place, but she shall not be detained, nor her cargo, if not contraband, be confiscated, unless after such notice she shall again attempt to enter. But she shall be permitted to go to any other port or place she may think proper. Nor shall any vessel, or goods of either party, that may have entered into such port or place, before the same was besieged, blockaded, or invested by the other, and be found therein after the reduction or surrender of such place, be liable to confiscation, but shall be restored to the owners or proprietors thereof.

Neither of the parties when at war, shall, during the continuance of the treaty, take from on board the vessels of the other the subjects of the opposite belligerent, unless they be in the actual employment of such belligerent.

ART. XI. Whereas differences have arisen concerning the trading with the colonies of his majesty's enemies, and the instructions given by his majesty to his cruisers in

regard thereto, it is agreed that during the present hostilities all articles of the growth, produce and manufacture of Europe, not being contraband of war, may be freely carried from the United States to the port of any colony, not blockaded, belonging to his majesty's enemies, provided such goods shall previously have been entered and landed in the United States, and shall have paid the ordinary duties on such articles so imported for home consumption, and on re-exportation shall after the drawback remain subject to a duty equivalent to not less than one per cent. ad valorem, and that the said goods and the vessels conveying the same shall, from the time of their clearance from the American port, be bona fide the property of citizens and inhabitants of the United States; and in like manner that all articles not being contraband of war, and being the growth and produce of the enemy's colonies, may be brought to the United States, and after having been there landed, may be freely carried from thence to any port of Europe, not blockaded, provided such goods shall previously have been entered and landed in the said United States, and shall have paid the ordinary duties on colonial articles so imported for home consumption, and on re-exportation shall, after the drawback, remain subject to a duty equivalent to not less than two per cent. ad valorem; and provided that the said goods, and the vessel conveying the same, be bona fide the property of citizens and inhabitants of the United States.

Provided always, that this article, or any thing therein contained, shall not operate to the prejudice of any right belonging to either party, but that after the expiration of the time limited for the article, the rights on both sides shall revive and be in full force.

ART. XII. And whereas it is expedient to make special provisions respecting the maritime jurisdiction of the high contracting parties on the coasts of their respective possessions in North America, on account of peculiar circumstances belonging to those coasts, it is agreed that in all cases where one of the said high contracting parties shall be engaged in war and the other shall be at peace, the belligerent power shall not stop, except for the purpose hereafter mentioned, the vessels of the neutral power, or the unarmed vessels of other nations, within five marine

miles from the shore belonging to the said neutral power on the American seas.

Provided, that the said stipulations shall not take effect in favour of the ships of any nation or nations, which shall not have agreed to respect the limit aforesaid, as the line of maritime jurisdiction of the said neutral state. And it is further stipulated, that if either of the high contracting parties shall be at war with any nation or nations, which shall not have agreed to respect the said special limit or line of maritime jurisdiction herein agreed upon, such contracting party shall have the right to stop or search any vessel beyond the limit of a cannon shot, or three marine miles from the said coasts of the neutral power, for the purpose of ascertaining the nation to which such vessel shall belong; and with respect to the ships and property of the nation or nations not having agreed to respect the aforesaid line of jurisdiction, the belligerent power shall exercise the same rights as if this article did not exist; and the several provisions stipulated by this article shall have full force and effect only during the continuance of the present treaty.

ART. XIII. With respect to the searching of merchant ships, the commanders of ships of war and privateers shall conduct themselves as favourably as the course of the war then existing may possibly permit towards the most friendly power that may remain neuter, observing as much as possible the acknowledged principles and rules of the law of nations: and for the better security of the respective subjects and citizens of the contracting parties, and to prevent their suffering injuries by the men of war or privateers of either party, all commanders of ships of war and privateers, and all others the said subjects and citizens, shall forbear doing any damage to those of the other party, or committing any outrage against them; and if they act to the contrary, they shall be punished, and shall also be bound in their persons and estates to make satisfaction and reparation for all damages, and the interest thereof, of whatever nature the said damages may be.

For this cause all commanders of privateers, before they receive their commissions, shall hereafter be compelled to give before a competent judge, sufficient security by at least two responsible sureties, who have no interest in the said privateer, each of whom, together with the said



commander, shall be jointly and severally bound in the sum of two thousand pounds sterling; or if such ship be provided with above one hundred and fifty seamen, or soldiers, in the sum of four thousand pounds sterling, to satisfy all damages and injuries which the said privateers or officers, or men, or any of them, may do or commit during their cruise, contrary to the tenour of this treaty, or to the laws and instructions for regulating their conduct; and further, that in all cases of aggressions, the said commissions shall be revoked and annulled.

It is also agreed, that whenever a judge of a court of admiralty, of either of the parties, shall pronounce sentence against any vessel or goods, or property, belonging to the subjects or citizens of the other party, a formal and duly authenticated copy of all the proceedings to the cause, and of the said sentence, shall, if required, be delivered to the commander of the said vessel without the smallest delay, he paying all legal fees and demands for the same.

ART. XIV. It is further agreed that both the said contracting parties shall not only refuse to receive any pirates into any of their ports, havens or towns, or permit any of their inhabitants to receive, protect, harbour, conceal or assist them in any manner, but will bring to condign punishment all such inhabitants as shall be guilty of such acts or offences.

And all their ships, with the goods or merchandises taken by them and brought into the port of either of the said parties, shall be seized as far as they can be discovered, and shall be restored to the owners or the factors or agents duly deputed, and authorized in writing by them, (proper evidence being shown in the court of admiralty for proving the property) even in case such effects should have passed into other hands by sale, if it be proved that the buyers knew, or had good reason to believe or suspect that they had been piratically taken.

ART. XV. It is likewise agreed, that the subjects and citizens of the two nations shall not do any acts of hostility or violence against each other, nor accept commissions or instructions so to act, from any foreign prince or state, enemies to the other party, nor shall the enemies of one of the parties be permitted to invite or endeavour to enlist in the military service, any of the subjects or citizens of the other party: And the laws against all such offences



and aggressions shall be punctually executed; and if any subject or citizen of the said parties respectively shall accept any foreign commission or letters of marque, for arming any vessel to act as a privateer against the other party, it is hereby declared to be lawful for the said party to treat and punish the said subject or citizen, having such commission, or letters of marque, as a pirate.

ART. XVI. It is expressly stipulated, that neither of the said contracting parties will order or authorize any acts of reprisal against the other, on complaints of injuries and damages, until the said party shall first have presented to the other a statement thereof, verified by competent proof and evidence, and demanded justice and satisfaction, and the same shall either have been refused or unreasonably delayed.

ART. XVII. The ships of war of each of the contracting parties shall at all times be hospitably received in the ports of the other, their officers and crews paying due respect to the laws and government of the country. The officers shall be treated with that respect which is due to the commissions which they bear; and if any insult should be offered to them by any of the inhabitants, all offenders in this respect shall be punished as disturbers of the peace and amity between the two countries. And both contracting parties agree that in case any vessel of the one should, by stress of weather, danger from enemies, or other misfortunes, be reduced to the necessity of seeking shelter in any of the ports of the other, into which such vessel could not in ordinary cases claim to be admitted, she shall, on manifesting that necessity to the satisfaction of the government of the place, be hospitably received, and permitted to refit, and to purchase at the market price such necessities as she may stand in need of, conformably to such orders and regulations as the government of the place, having respect to the circumstances of each case, shall prescribe. She shall not be allowed to break bulk or unload her cargo, unless the same shall be *bona fide* necessary to her being refitted; nor shall she be obliged to pay any duties whatever, except only on such articles as she may be permitted to sell for the purpose aforesaid.

ART. XVIII. It shall not be lawful for any foreign privateers (not being subjects or citizens of either of the said parties) who have commissions from any power or state

in enmity with either nation, to arm their ships in the ports of either of the said parties, nor to sell what they have taken, nor in any other manner to exchange the same ; nor shall they be allowed to purchase more provisions than shall be necessary for their going to the nearest port of that prince or state from whom they obtained their commissions.

ART. XIX. It shall be lawful for the ships of war and privateers belonging to the said parties respectively, to carry whithersoever they please, the ships and goods taken from their enemies, without being obliged to pay any fees to the offices of the admiralty, or to any judges whatever, nor shall the said prizes, when they arrive at and enter the ports of the said parties, be detained or seized, nor shall the searchers or other officers of those places visit such prizes (except for the purpose of preventing the carrying of any part of the cargo thereof on shore in any manner contrary to the established laws of revenue, navigation, or commerce,) nor shall such officers take cognizance of the validity of such prizes, but they shall be at liberty to hoist sail, and depart, as speedily as may be, and carry their said prizes to the places mentioned in their commissions or patents, which the commanders of the said ships of war or privateers shall be obliged to show.

No shelter or refuge shall be given in their ports to such as have made a prize upon the subjects or citizens of either of the said parties ; but if forced by stress of weather or the dangers of the sea to enter them, particular care shall be taken to hasten their departure, and to cause them to retire as soon as possible : nothing in this treaty contained shall however be construed to operate contrary to the former and existing publick treaties with other sovereigns or states : but the two parties agree, that while they continue in amity, neither of them will in future make any treaty, that shall be inconsistent with this or the preceding articles.

Neither of the said parties shall permit the ships or goods belonging to the subjects or citizens of the other, to be taken within cannon shot of the coast, nor within the jurisdiction described in article 12, so long as the provisions of the said article shall be in force, by ships of war, or others having commissions from any prince, republick, or state whatever : but in case it should so happen, the

party whose territorial rights shall thus have been violated, shall use his utmost endeavours to obtain from the offending party, full and ample satisfaction for the vessel or vessels so taken, whether the same be vessels of war or merchant vessels.

ART. XX. If at any time a rupture should take place (which God forbid) between his majesty and the United States, the merchants and others of each of the two nations, residing in the dominions of the other, shall have the privilege of remaining and continuing their trade so long as they do it peaceably, and commit no offence against the laws; and in case their conduct should render them suspected, and the respective governments should think proper to order them to remove, the term of twelve months, from the publication of the order, shall be allowed them for that purpose, to remove with their families, effects, and property. But this favour shall not be extended to those who shall act contrary to the established laws; and, for greater certainty, it is declared, that such rupture shall not be deemed to exist while negotiations for accommodating differences shall be depending, nor until the respective ambassadors or ministers, if such there shall be, shall be recalled or sent home on account of such differences, and not on account of personal misconduct, according to the nature and degree of which both parties retain their rights, either to request the recall, or immediately to send home the ambassador or minister of the other; and that without prejudice to their mutual friendship and good understanding.

ART. XXI. It is further agreed that his majesty and the United States, on mutual requisitions by them respectively, or by their respective ministers, or officers authorized to make the same, will deliver up to justice all persons, who, being charged with murder or forgery, committed within the jurisdiction of either, shall seek an asylum within any of the countries of the other; provided, that this shall only be done on such evidence of criminality, as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial, if the offence had there been committed. The expense of such apprehension and delivery shall be borne and defrayed by those who make the requisition, and receive the fugitive.

ART. XXII. In the event of a shipwreck happening in a place belonging to one or other of the high contracting parties, not only every assistance shall be given to the unfortunate persons, and no violence done to them, but also the effects which they shall have thrown out of the ship into the sea shall not be concealed, nor detained, nor damaged, under any pretext whatever. On the contrary, the above mentioned effects and merchandise shall be preserved, and restored to them, upon a suitable recompense being given to those who shall have assisted in saving their persons, vessels, and effects.

ART. XXIII. And it being the intention of the high contracting parties, that the people of their respective dominions shall continue to be on the footing of the most favoured nation, it is agreed, that in case either party shall hereafter grant any additional advantages in navigation or trade, to any other nation, the subjects or citizens of the other party shall fully participate therein.

ART. XXIV. The high contracting parties engage to communicate to each other, without delay, all such laws as have been or shall be hereafter enacted by their respective legislatures, as also all measures which shall have been taken for the abolition or limitation of the African slave trade; and they further agree to use their best endeavours to procure the co-operation of other powers for the final and complete abolition of a trade so repugnant to the principles of justice and humanity.

ART. XXV. And it is further agreed, that nothing herein contained shall contravene or affect the due execution of any treaty or treaties, now actually subsisting between either of the high contracting parties and any other power or powers.

ART. XXVI. This treaty, when the same shall have been ratified by his majesty, and by the President of the United States, with the advice of their Senate, and the respective ratifications mutually exchanged, shall be binding and obligatory on his majesty, and on the said States, for ten years, from the date of the exchange of the said ratification, and shall be reciprocally executed and observed with punctuality and the most sincere regard to good faith.

In faith whereof, we, the undersigned plenipotentiaries on the part of his majesty, the king of Great Britain, and the commissioners extraordinary and plenipotentiaries on the part of the United States of America, have signed this present treaty, and have caused to be affixed thereto the seal of our arms. Done at London, this thirty-first day of December, one thousand eight hundred and six.

[L. S.]  
[L. S.]

VASSALL HOLLAND,  
AUCKLAND.

[L. S.]  
[L. S.]

JAMES MONROE,  
WM. PINKNEY.

*London, Dec. 31, 1806.*

THE undersigned Henry Richard Vassall lord Holland, and William lord Auckland, plenipotentiaries of his Britannick majesty, have the honour to inform James Monroe and William Pinkney, commissioners extraordinary and plenipotentiaries of the United States of America, that they are now ready to proceed to the signature of the treaty of amity, commerce and navigation, on the articles of which they have mutually agreed.

But at the same time, they have it in command from his majesty, to call the attention of the commissioners of the United States, to some extraordinary proceedings which have lately taken place on the continent of Europe, and to communicate to them officially the sentiments of his majesty's government thereupon.

The proceedings alluded to are certain declarations and orders of the French government issued at Berlin on the 21st of November last.

In those orders, the French government seeks to justify or palliate its own unjust pretensions, by imputing to Great Britain principles which she never professed, and practices which never existed. His majesty is accused of a systematick and general disregard of the law of nations, recognised by civilized states, and more particularly of an unwarrantable extension of the right of blockade ; whereas his majesty may confidently appeal to the world, on his uniform respect for neutral rights, and his general and scrupu-



ious adherence to the law of nations, without condescending to contrast his conduct in these particulars with that of his enemy ; and with regard to the only specifick charge, it is notorious that he has never declared any ports to be in a state of blockade, without allotting to that object a force sufficient to make the entrance into them manifestly dangerous.

By such allegations, unfounded as they are, the enemy attempts to justify his pretensions of confiscating, as lawful prize, all produce of English industry or manufacture, though it be the property of neutrals ; of excluding from his harbours every neutral vessel which has touched at any port of his majesty's dominions, though employed in an innocent commerce, and of declaring Great Britain to be in a state of blockade, though his own naval ports and arsenals are actually blockaded, and he is unable to station any naval force whatever, before any port of the united kingdom.

Such principles are in themselves extravagant and repugnant to the law of nations ; and the pretensions founded on them, though professedly directed solely against Great Britain, tend to alter the practice of war among civilized nations, and utterly to subvert the rights and independence of neutral powers. The undersigned cannot, therefore, believe, that the enemy will ever seriously attempt to enforce such a system. If he should, they are confident that the good sense of the American government will perceive the fatal consequences of such pretensions to neutral commerce, and that its spirit and regard to national honour will prevent its acquiescence in such palpable violations of its rights, and injurious encroachments on its interests.

If however the enemy should carry these threats into execution, and if neutral nations, contrary to all expectation, should acquiesce in such usurpations, his majesty might probably be compelled, however reluctantly, to retaliate in his just defence, and to adopt, in regard to the commerce of neutral nations with his enemies, the same measures which those nations shall have permitted to be enforced against their commerce with his subjects. The commissioners of the United States will therefore feel, that at a moment when his majesty and all neutral nations are threatened with such an extension of the belligerent pre-



tensions of his enemies, he cannot enter into the stipulations of the present treaty, without an explanation from the United States, of their intentions, or a reservation on the part of his majesty in the case above mentioned, if it should ever occur.

The undersigned considering that the distance of the American government renders any immediate explanation on this subject impossible, and animated by a desire of forwarding the beneficial work in which they are engaged, are authorized by his majesty to conclude the treaty without delay. They proceed to the signature under the full persuasion that before the treaty shall be returned from America with the ratification of the United States, the enemy will either have formally abandoned or tacitly relinquished his unjust pretensions, or that the government of the United States, by its conduct or assurances, will have given security to his majesty that it will not submit to such innovations in the established system of maritime law : and the undersigned have presented this note from an anxious wish that it should be clearly understood on both sides, that without such an abandonment on the part of the enemy, or such assurances, or such conduct on the part of the United States, his majesty will not consider himself bound by the present signature of his commissioners to ratify the treaty, or precluded from adopting such measures as may seem necessary for counteracting the designs of his enemy.

The undersigned cannot conclude without expressing their satisfaction at the prospect of accomplishing an object so important to the interests and friendly connexion of both nations, and their just sense of the conciliatory disposition manifested by the commissioners of the United States during the whole course of the negotiation.

VASSALL HOLLAND,  
AUCKLAND.

To James Monroe, &c. &c. &c.

William Pinkney, &c. &c. &c.

*London, March 14, 1807.*

MY LORD,—In conformity with the intimation which your lordship was so good as to make to us at a late interview, relative to cer'tain claims and prize causes, which had been brought into discussion in the course of the late negotiation between his majesty's commissioners, and those of the United States, we have the honour to transmit to your lordship the copy of a note to lord Holland and lord Auckland, in which those claims and prize causes are fully explained. It is proper to add, that at the time of the signature of the treaty it was distinctly understood between the commissioners on both sides, that this subject was not to be affected by it, but was to remain completely open for future adjustment.

We leave it upon the statement contained in that note and the documents to which it refers, in perfect confidence that it will be viewed by your lordship with the interest which belongs to it, and that every thing which is suitable to the high and honourable character of his majesty's government, and the just claims of the United States, will be done with relation to it, as promptly as circumstances will permit.

We have the honour to be, &c.

JAMES MONROE,  
WILLIAM PINKNEY.

The Rt. Hon. Lord Viscount Howick, &c. &c. &c.

*London, August 20, 1806.*

THE undersigned commissioners extraordinary and plenipotentiary of the United States of America, think it necessary to give to lord Holland and lord Auckland, the commissioners extraordinary and plenipotentiary of his majesty, a brief explanation in writing of the claims, which they have already had the honour to mention to their lordships in a recent conference, of sundry American citizens, for suitable compensation for losses and damages sustained in the course of the present war, by reason of irregular or illegal captures or condemnations of their vessels and other property, and at the same time to call the attention of their

lordships to the situation of certain prize causes, arising out of some of these captures, now depending in the tribunals of this country.

The undersigned are happy in having it in their power to state that, according to the information they have been able to obtain, such of these claims as relate to captures, which, from causes peculiar to themselves, have excited in America a more than ordinary degree of sensibility, are not so considerable in number as was at first supposed.

The complaints of this description, to which the undersigned would particularly invite the attention of their lordships, have been produced by seizures as prize, made in direct violation of rules of maritime practice, previously declared by his majesty's government to the government of the United States, and in no degree revoked or affected by any arrangement between them, or even by any notification, that they were about to be abandoned.

Of these seizures, the most important, and in every view the most interesting, were made in the year 1805, and in the early part of the year 1806, of the ships and merchandise of American citizens, upon the pretension, that the voyages in which they were engaged were direct or continuous between the colonies of his majesty's enemies and some port in Europe.

Although it is certain that the government of the United States has never admitted that illegality can be imputed to such a trade, even when confessedly continuous or direct, and had concluded that the question had been otherwise formally settled in its favour, the undersigned believe it to be unnecessary to bring that point into view with any reference to the cases now under consideration. It is sufficient to state that, at the date of these seizures the merchants of the United States did explicitly understand, and were justified in a confident belief, founded not only upon antecedent practice, but upon a formal communication, in the year 1801, to the American minister in London from his majesty's principal secretary of state for the department of foreign affairs, that the circumstances, by which these voyages were accompanied, had been, and were distinctly admitted by the British government, and by British courts of prize, to break their continuity, and render them unquestionably lawful.

The following detail will show more precisely the nature and effect of the communication to which the undersigned allude.

The publick and private armed ships of this country having seized American vessels, bound from the United States to the Spanish West Indies, on the pretext that their cargoes consisted of articles of the growth of Spain, then at war with Great Britain, and the vice admiralty court of Nassau having condemned the cargo of one of these vessels upon that pretext, Mr. King, in a note to lord Hawkesbury of the 13th of March, 1801, remonstrated against these acts as palpable abuses. The subject of this remonstrance was immediately referred to the king's advocate, whose report of the 16th of March, 1801, after declaring that the sentence of the vice admiralty court was erroneous, concludes with the following exposition of the law as understood in Great Britain, relative to the commerce of neutrals with belligerents and their colonies. "It is now distinctly understood, and has been repeatedly so decided by the high court of appeal, that the produce of the colonies of the enemy may be imported by a neutral into his own country, and may be re-exported from thence, even to the mother country of such colony; and in like manner the produce and manufactures of the mother country may, in this circuitous mode, legally find their way to the colonies. The direct trade, however, between the mother country and its colonies has not, I apprehend, been recognised as legal, either by his majesty's government, or by his tribunals."

"What is a direct trade, or what amounts to an intermediate importation into the neutral country, may sometimes be a question of some difficulty. A general definition of either, applicable to all cases, cannot well be laid down. The question must depend upon the particular circumstances of each case. Perhaps the mere touching in the neutral country, to take fresh clearances, may properly be considered as a fraudulent evasion, and is in effect the direct trade; but the high court of admiralty has expressly decided (and I see no reason to expect that the court of appeal will vary the rule) that landing the goods and paying the duties in the neutral country, breaks the continuity of the voyage, and is such an importation as legalizes the trade, although the goods be reshipped in the

same vessel, and on account of the same neutral proprietors, and be forwarded for sale to the mother country or the colony."

An extract from this report, containing the foregoing passage, was transmitted by the duke of Portland, in a letter of the 30th March, 1801, to the lords commissioners of the admiralty. His grace's letter concludes thus: "In order, therefore, to put a stop to the inconveniences arising from these erroneous sentences of the vice admiralty courts, I have the honour to signify to your lordships the king's pleasure that a communication of the doctrine laid down in the said report should be immediately made by your lordship's to the several judges presiding in them, setting forth what is held to be the law upon the subject by the superior tribunals, for their future guidance and direction."

On the 11th of April, 1801, lord Hawkesbury communicated to Mr. King, for the information of the government of the United States, a copy of the above letter of the duke of Portland, which is stated by his lordship to have been written by his majesty's command, in consequence of Mr. King's representation of the preceding month, together with a copy of the extract from the report of the king's advocate, referred to in his grace's letter, and already above quoted. Upon the receipt of this communication, Mr. King transmitted it to his government in a letter (of which a copy is annexed) containing the following observations: "I take the liberty of suggesting the expediency of publishing these copies in our newspapers, as the most expeditious means of communicating the same to the cruising ships and privateers in the American seas. Having intimated this suggestion to lord Hawkesbury before he prepared and sent me his answer, there can be no exceptions here against such a publication." The publication was directed, and took place accordingly.

The undersigned are persuaded that lord Holland and lord Auckland will at once perceive that the report of the king's advocate, thus unequivocally adopted by his majesty's government, and communicated, as an act to be respected and confided in, through the American minister, to the government of the United States, and finally to their citizens and to Europe, through the medium of a publication expected and authorized, cannot, in any fair construc-



tion, be viewed as any thing short of a formal declaration, on the part of Great Britain, "that the landing of the cargo and the payment of the duties in the neutral country," would be considered as legalizing the circuitous trade, even between a belligerent and its own colonies.

The practice during the late, and the two first years of the present war, was in perfect conformity with this document, and by that conformity increased its authority, and furnished an additional justification, if any had been required, for a dependence upon the doctrine which it announced.

In the summer of 1805, however, when a large amount of American property was afloat, undeniably entitled to the protection of the above rule, and committed to the high seas under an implicit reliance upon a strict adherence to it, the rule was suddenly abandoned, and British cruisers fell upon this trade, thus sanctioned by the express admission, as well as by the acquiescence of their government; and these captures are understood to have received the highest judicial sanction.

The undersigned have no desire to dwell upon this subject. They are convinced that the liberal and equitable sentiments which distinguish his majesty's government, render unnecessary the farther explanations of which it is susceptible. Referring to two notes from the undersigned Mr. Monroe, to lord Mulgrave, of the 23d of September, 1805, and to Mr. Fox, of the 25th of February, 1806, the undersigned have only to declare their sincere conviction that his majesty's government will not fail to see, in the facts which they have had the honour to state, an irresistible call upon it to repair the injurious effects of these seizures. As to the few cases of this class, now depending before the lords commissioners of appeal, or in other prize courts of his majesty, the undersigned feel assured that measures will be taken to cause them to be favourably disposed of, and that suitable reparation will moreover be secured to the parties injured for the loss and damage they have sustained. The undersigned have the honour to transmit herewith a list of all the cases of this class, in which are distinguished such as are still judicially depending.

The next class of these cases (of which lists and estimates will hereafter be furnished) comprehends captures,



during the existing war, contrary to the tenour of a letter of the 5th January, 1804, from sir Evan Nepean to Mr. Hammond, on the subject of the blockade of Martinique and Guadaloupe, of which a copy was enclosed in a letter of the 12th of April, 1804, from Mr. Merry to Mr. Madison, of both of which letters copies are herewith transmitted.

The citizens of the United States complain that they have suffered severely by captures, in violation of the rules laid down with so much fairness and precision in this communication, and that, where condemnations have not followed, compensation equivalent to the actual loss has not been, and cannot be procured in the ordinary course, by any exertions on their part. The pretext for some of these captures has been the breach of an alleged blockade of Martinique or Guadaloupe ; for others, the breach of an imaginary blockade of Curacao ; and for others the breach of an equally imaginary blockade of other ports and places. In all of these cases, either the actual investment of the particular port was wanting, or the vessel, seized for an imputed criminal destination to it, had not been warned as required. The just extent of these claims the undersigned are not able to state ; but they presume that it cannot be considerable.

The only remaining claims, which are reducible to any precise class, are those which relate to captures within the territorial jurisdiction of the United States. Of these, as well as some others of a miscellaneous nature, which the undersigned have not at present the means of presenting distinctly to lord Holland and lord Auckland, lists shall hereafter be prepared, and laid before their lordships, accompanied by suitable explanations.

The undersigned request lord Holland and lord Auckland to accept the assurance of their perfect consideration.

JAMES MONROE,  
WM. PINKNEY.

*An extra official Communication with regard to the Canada Trade.*

A MEMORIAL has been presented to lord Holland and lord Auckland, on the part of the Canada merchants, setting forth a variety of injuries which they complain of having sustained from the government and servants of the United States, and praying that their complaints may be attended to, and redress obtained for them in the discussions which are at present pending between the American and British commissioners.

The injuries brought forward on their memorial may be reduced to the three following heads :

1st. Their exclusion from Louisiana.

2d. Their being made to pay higher duties for the goods they import into the United States from Canada, than the duties payable by the citizens of the United States on the importation of the same goods in American vessels into the Atlantick ports of the United States.

3d. Certain minor grievances which they contend to be in like manner contrary to the letter and spirit of the treaty of 1794.

By the 3d article of the treaty of 1794, it is agreed that it shall at all times be free to his majesty's subjects, and to the citizens of the United States, freely to pass and re-pass, by land or inland navigation, into the respective territories and countries of the two parties on the continent of America, and to navigate all the lakes and waters thereof, and freely to carry on trade with each other.

But notwithstanding this express stipulation, which secures to his majesty's subjects without limitation or reservation the right of commercial intercourse by land or inland navigation with all the territories of the United States, on the continent of America, the governour of Louisiana has thought proper to exclude them from the commerce of that extensive province, unless they abjure their allegiance to his majesty and take an oath of allegiance to the United States ; and the same governour has also taken it upon him to prohibit the introduction of any goods or merchandise, which are not the property of citizens of the United States.

This arbitrary proceeding, besides being a direct violation of the treaty of 1794, is highly detrimental to the private interests of the Canada merchants, for it excludes them from a country where they have been carrying on trade successfully for many years, without interruption from the Spaniards, having latterly pushed their commercial posts even to the banks of the Missouri, and augmented the sale of their goods in Louisiana, to the amount of about £40,000 or £50,000 annually.

By the second paragraph of the 3d article of the treaty of 1794, it is agreed, that all goods and merchandise, whose importation into the United States shall not be wholly prohibited, may freely, for the purpose of commerce, be carried into the same, in the manner aforesaid, by his majesty's subjects, and such goods or merchandise shall be subject to no higher duties than those payable by citizens of the United States, on the importation of the same in American vessels into the Atlantick ports of the said states.

But notwithstanding this stipulation, that the duties on goods imported into the United States from Canada shall be no higher than the duties paid for the same goods when imported in American vessels into the Atlantick ports of the United States, the custom-house officers of the inland ports practise a mode of estimating the duties on goods imported from Canada, which has the effect of raising the duty on the prime cost of these goods to £22 per cent. instead of £16 10 per cent. which is the amount of the duty payable on the same goods, when imported in American vessels into the Atlantick ports of the United States.

As these goods are destined ultimately for the Indian market, this difference gives a decided advantage in that commerce to the citizens of the United States over the subjects of his majesty, contrary to the spirit and obvious meaning of the treaty of 1794, the basis of which, in all its stipulations with regard to the Indian trade, were impartiality, equality, and reciprocity of advantages.

The manner in which this evasion of the treaty is effected, will appear from the account given of it by the Canada merchants, in their memorial above referred to.

They state, "that by the revenue laws of the United States, all goods imported into their territory, not charged with a particular duty, pay a duty of fifteen per cent. ad valorem, excepting goods from the Cape of Good Hope,

and from the countries beyond it; that in calculating this duty, 10 per cent. is first added to the prime cost of the goods, and the duty afterwards calculated on the amount in the following manner:

Prime cost	-	-	-	-	£100
10 per cent. added	-	-	-	-	10
					<hr/>
					£110
15 per cent. duty on £110					16 10

But that in estimating the duty on goods imported from Canada, the custom-house officers add 10 per cent. not to the prime cost, but to their value at Montreal, where it is the custom for merchants to add  $83\frac{1}{3}$  per cent. to the prime cost in Europe, as an equivalent for the expense and risk of transporting them so far, and that proceeding on this principle, the duties on goods imported into the United States from Canada are calculated in the following manner:

Prime cost in Europe	-	-	£100
Additional charge at Montreal	-		33 6 8
			<hr/>
			133 6 8
Additional 10 per cent.	-		13 6 8
			<hr/>
			146 13 4

Duty of 15 per cent. on £146 13 4 amounts to £22: so that the same goods which pay a duty of only 16s. 8d. when imported by an American dealer, pay a duty of £22 when brought to the same market by a British dealer, contrary to the obvious spirit and meaning, and to the express stipulation of the treaty of 1794.

Under the third head of minor grievances are to be classed the following: 1st. Though British subjects are entitled, in the terms of the treaty of 1794, "freely to pass and repass by land or inland navigation into the territories of the United States," yet they are obliged to pay \$6 for a license to trade with the Indians within the boundaries of the United States by the servants of the States; and when they arrive at the American ports in the interior, they are often compelled to dismiss their canoe men, and to hire others at a great expense and inconvenience.

2d. Though it is agreed in the treaty "that no duties shall be payable on any goods which shall merely be carried over any of the portages, or carrying places, on either side, for the purpose of being immediately re-embarked and carried to some other place or places," yet various attempts have been made to collect such duties at the American portages, which have at length compelled the British traders to abandon the *grand portage*, and to establish a new portage at Kiminesti, within the British line.

Though the arrangement of the Indian trade by the treaty of 1794 was "intended to render in a great degree the local advantages of each party common to both, and thereby to promote a disposition favourable to friendship and good neighbourhood," yet the revenue officers of the United States, without considering the difficulty of observing in the lakes and rivers of Canada those regulations with regard to the approach to shores and ports, which are applicable to the ports of the ocean, have, in many instances, and in particular in the case of the two batteaux stopped at Michilimackinac, manifested a disposition to harass and impede the trade of British merchants on pretences the most frivolous and unfounded, and in a manner equally vexatious and injurious to them.

DUPLICATE.

*London, April 22, 1807.*

SIR,—We had the honour to receive your letter of Feb. 3d, on the 6th instant, and are now to give you a detail of the measures we have pursued in obedience to the instructions it communicated.

To enable you to form a just idea of those measures, it will be proper to state concisely what had occurred at the time of receiving your letter, after the departure of Mr. Purviance with the treaty, and our despatch of the 3d of January.

Soon after that date we resumed our conferences with the British commissioners, as we intimated it was our intention to do, and had nearly digested with them the project of a supplemental convention upon the principal topics alluded to in the last paragraph of that despatch.

when an entire change took place in the British ministry : lord Grenville and his associates being compelled to retire in favour of the friends of the late Mr. Pitt. This change, of course, suspended the farther progress of the business, and in that state it still remains.

Before this change in the administration, we had presented to the British commissioners, according to an agreement which accompanied the signature of the treaty, an antedated note on the subject of indemnity, and another to lord Howick on the same subject, previously seen and approved by the British commissioners. With these papers, (of which copies are now transmitted) the British commissioners not only expressed their perfect satisfaction, but assured us then, as they have frequently done since, that the just confidence with which that agreement had inspired us, in regard to its object, would not be disappointed.

We had many conferences with the British commissioners, previous to the late change, upon the subject of impressments, in which they invariably declared to us, that the practice of their government would be strictly conformable to the spirit of the article which they had settled with us, and which was afterwards rejected by the cabinet. They stated, that the prejudice of the navy, and of the country generally, was so strong in favour of their pretension, that the ministry could not encounter it, in a direct form ; and that, in truth, the support of parliament could not have been relied on in such a case. It was their idea that, by discontinuing the practice in the mode proposed by them, which might be done without giving any shock to the publick feeling, this prejudice might be gradually overcome, and an arrangement by treaty on this very delicate and difficult subject rendered ultimately practicable. The United States would in the interim enjoy the security they sought, without any abandonment of their rights, and be induced to yield in return, as their confidence increased, the equivalents which we had offered in our project.

The footing upon which the note of the British commissioners (which is and must be considered as equally obligatory as if actually inserted in the treaty) left this point, was supposed to be the less liable to exception on our part, because, while it affords a pledge, unquestionably intended to secure the substance of our object, and con-



stantly admitted here to be equal to that effect, it keeps it, nevertheless, for our advantage, completely open for future negotiation and more formal adjustment. The note declares that the discussion of any plan will be entertained that can be devised "to secure the interests of both states, without injury to rights to which they are respectively attached," and consequently provides for a renewal of negotiation with a sincere view to such an arrangement as shall be practically consistent with the declared pretensions of the United States, and yet leave untouched the British principle; or, in other words, an arrangement, in which Great Britain shall agree to conform her conduct to our views, without renouncing the claim which she has hitherto maintained and acted upon. It was supposed, therefore, to be the clear import of that note, that the conduct of Great Britain would not, while the discussion of such a plan as it might be proper to insert in a treaty stood postponed at the request of its commissioners, encroach in practice upon rights, which we had so strongly asserted and vindicated as rights not to be abandoned, which it was well understood our government and country would not suffer to be invaded in future as they had been during the past, and which the British commissioners themselves, acting under the immediate orders of the cabinet, had in their note distinctly recognised as fit to be preserved hereafter from injury and violation. This conclusion was thought to be the more just and natural, when it was remembered that it was supported, not only by the verbal admissions and declarations of the British commissioners, which would of course, as they well knew, be reported to our government, but by the language of such parts of the note as looked particularly to the future practice of Great Britain on the subject of impressments. It was believed to be fortified too by the obvious consideration, that the United States would be authorized, notwithstanding any adjustment by treaty upon other points, in case of the impressment on the high seas of a single mariner from on board an American vessel, to view it as an act of aggression, and to resent it accordingly. This right existed, undoubtedly, independently of that note; but it seemed notwithstanding to derive from it a new and high sanction favourable to its just effect: and certainly the sensibility and determination which have been manifested

on this point by the United States, especially of late, and by the American commissioners during the recent negotiation, must have inspired this government with the conviction, that a perseverance in such outrages upon their sovereignty and the rights of their citizens, would be wholly incompatible with the peaceful relations of the two countries, which it was the professed object of the British commissioners and their government to preserve. It is proper, however, for us to state, that it was our intention to have requested of this government written explanations on this topick of impressment, as well as on that of indemnity, for the purpose of transmitting them to you. The approaching departure of Mr. Monroe for the United States would, it was thought, furnish a suitable occasion for such an application.

Towards the end of the last month, the change took place in the ministry, and on the 27th the diplomatic corps had their first interview with Mr. Canning, who succeeded lord Howick in the foreign department. Although the meeting was general, a separate audience was given, as is usual, to the representatives of each power. At Mr. Canning's request, we gave him a concise, but just view of the state of the business between our governments. He appeared not to have heard before of what had taken place relative to the project of a supplemental convention. He said that he had come too recently into office to be able to say any thing decisive on any of the topicks, of which we had given him a sketch, but that he would soon make himself acquainted with them, and give us another interview. His professions, which were of a general nature, were conciliatory.

Such was the state of affairs when we had the honour to receive your letter of February the 3d. We were anxious to carry into effect the instructions contained in that letter, in the best manner in our power, and with the least possible delay. It became especially our duty to make known to the new ministry, as soon as we might be able, the understanding which had subsisted between the British commissioners, and through them the late cabinet, and us, as to the condition on which we had consented to confine the negotiation, after our project relative to impressments had been rejected ; that in fact we had no authority to treat after that event ; and that our government was not

bound, or supposed or intended to be bound, to ratify what we had done, if it disapproved of it. We were equally desirous of turning to the best account the appeal which a refusal to ratify by our government would make to the interests of this country, in an effort to arrange by treaty this great point with the new ministry. The first measure seemed to be free from difficulty. The statement proposed was an act of justice to our government, and of duty to it and our country, which might be discharged without the slightest hazard to the publick interest. Indeed, as it was presumable that this government would soon receive intelligence from Mr. Erskine, which, without such an explanation, could hardly fail to produce an unfavourable effect, it appeared to be indispensably necessary to make it, to prevent a publick injury. The second object, however, was evidently involved in more difficulty. From what we had seen, in the debates in parliament, of the disposition of several of the members of the new ministry, before they came into power, on subjects which were connected with our treaty, independent of other causes, we had reason to believe that great caution ought to be observed in any communication which we might make to it on that point. Although lord Holland and lord Auckland had retired from their offices of lord privy seal and president of the board of trade, they still retained their situations as commissioners extraordinary and plenipotentiary, and, as we presumed, would continue to do so until the business, in which we had been engaged with them, should be concluded. In every view it seemed to be just and expedient to confer with them on the subject of our late despatch. We accordingly obtained an early interview, in which we communicated, in confidence, the substance of that despatch, as well in conformity with the orders of the President, as in the hope that they might be able to assist us in the accomplishment of its objects. But we found them under circumstances of such peculiar delicacy with the new ministry, that it was not in their power to give us the slightest aid. They informed us that, on the exchange of ministers, lord Howick had communicated to Mr. Canning the state in which our business stood, and more particularly the progress which had been made in the proposed plan of a convention, in the expectation that he would have requested them to proceed in it: that, how-

ever, no such request had been made, in consequence of which they should feel it their duty, in case he continued silent, to withdraw from the commission. They expressed their regret that they had not been able to arrange with us by treaty the subject of impressment, as they wished to have done; but assured us that the order which they had engaged should be issued in their note of November 3, had been actually issued about that time, and in terms calculated, as they had understood, to accomplish the object desired. They saw no objection to our being furnished with a copy of that order, and presumed that it might still be obtained. In adverting to the understanding which had subsisted between us on the failure of the article which had been submitted to the cabinet for providing against impressments at sea, we were happy to find that they retained a perfect recollection of it in the sense in which we have stated it above. They admitted that we had a right to expect from the new ministry an explanation of its views relative to the project of a convention, and to indemnity and impressment, from the particular state in which those great subjects were left, and the claims which we had on the government from what had been done in them. Of our prospect of making with the present ministry a satisfactory arrangement against impressments by treaty they said nothing, but they repeated what they had often said before, that *they* had done all on that point in their power, and declared it as their opinion, that, if their friends had remained in office, well disposed as they knew them to be towards the United States, the mode in which we were now about to pursue this object would not tend to produce, in that, or any other respect, a favourable effect. They could therefore give us no advice as to the part which it became us to take in the present juncture. They intimated, however, that by obtaining an interview and conferring with Mr. Canning we might probably ascertain the sentiments of his government on the whole subject, and be enabled thereby to pursue the course which would be best adapted to the spirit of our instructions and the interests of our country.

Immediately after our interview with the British commissioners we asked one of Mr. Canning, which was obtained on the instant. It was our intention to have confined ourselves in the first instance to the topics above mention-

ed, and to the information which we thought it our duty to give him of the understanding which had subsisted between the British commissioners and ourselves, of the condition on which we had proceeded to the other points of the negotiation, after the project of an article relative to impressments had been rejected. As soon, however, as we glanced at the objects of the interview, he observed that he had just received intelligence which, if true, would make it unnecessary for us to enter at present on any of the topics alluded to : that it had been represented to him that an officer, just arrived from America, had that morning informed the admiralty that the treaty which had been lately concluded here had been rejected by our government ; that he had not seen the officer, and therefore could not state the grounds on which the information rested. He observed that such an event would place the relations of the two countries in an embarrassing situation, and wished to know whether we had received any intelligence of a like import. We perceived at once, that the important feature in your despatch of February 3d, respecting the disclosure of which to the new ministry we had entertained some doubt, was not only either already known to it, or soon would be, but that inferences of a dangerous tendency were likely to be drawn from the refusal of our government to ratify the treaty, in case it should occur, which such an event could not justify. We saw, therefore, the necessity of communicating to Mr. Canning immediately, the substance of that despatch, as well for the purpose of preventing those errors, as to obey the instructions contained in it, over which, in the respect alluded to, we should have exercised any discretion with great reluctance. We assured Mr. Canning, that there could have been no foundation for the report of the rejection of the treaty, as we were satisfied that Mr. Purviance, who had carried it to our government, could not have arrived in the United States in time to enable the President to submit it to the consideration of the Senate, before the 3d of March, when Congress must have adjourned ; and that he must be sensible, that, until the receipt of our despatch, no step, at least of so decisive a character would be taken in the business. We stated, however, that we had great reason to believe that the treaty would not be ratified in its present form, for a cause which was well known to his majesty's late government.



We then communicated to him fully all the circumstances on which that remark was founded, particularly the nature of our instructions relative to impressments; the knowledge which the British commissioners had of them; the entire suspension of the negotiation at a certain period, on the failure with the cabinet of a project of an article for the regulation of that point; the considerations which induced us afterwards to proceed in the negotiation, founded on the note of the British commissioners of the 8th of November, the nature of which we fully explained; and finally the condition on which we did proceed in the business, that is, that our government would not be bound to ratify the treaty, if it should not be satisfied with the substitute for such an article offered in that note. He asked us, in case the treaty should not be ratified, in what state our government wished to place the relations of the two countries. We replied that it was its wish that the subject of impressment should be resumed and arranged: we explained to him the nature of the article, on the failure of which the negotiation had been suspended, and showed that Great Britain would gain by it much more than an equivalent for the forbearance of the practice of which we complained, independent of the other good effects likely to result from it. On this point he gave no opinion, but asked what the relation should be, in case no such agreement as we desired should take place respecting impressments. We replied that, in such a case, it would be the desire of our government that no treaty should be concluded, but that the relations should be placed informally on the most friendly footing; adhering, in the explanations which we gave him on this head, to the ideas contained in your letter of February 3d, but without mentioning the actual receipt of such a letter. He said he was glad to find, that our government looked in all events to amicable arrangement. We told him that we had not heard from you since the treaty had arrived in America; but that full instructions would doubtless be forwarded to us, as soon after that event as possible. He then observed that, under present circumstances, he thought it would be better to let the whole business rest, as it would be impossible for either party to move in it with advantage. He promised, in case the officer above mentioned brought any thing ma-



terial, to inform us of it, and to appoint a time for another interview, which however he has not since done. We enclose a copy of his note of the next day.

It is impossible for us to give you a satisfactory opinion as to the prospect of arranging this important business with the present ministry. All the facts on which such an opinion should be formed, not previously known to you, are stated above. As, however, we are not perfectly aware of the consequences of any act on our part, which might tend to lessen the obligation of this government to ratify the treaty, in case it should be ratified by the President and Senate, we have thought it best, (especially as Mr. Canning, after promising us an appointment, has shown no disposition towards another interview) to leave things in their present state until we hear from you. We flatter ourselves, that we shall soon have that satisfaction, as we see by the gazettes that Mr. Purviance must have arrived at Washington about the 12th of March. In the mean time, we have placed our affairs on a footing the most favourable for any course which our government may take, and we beg you to be assured that we shall, with the utmost zeal and promptitude, adopt that which shall be thought the most expedient.

We have the honour to be, &c.

JAMES MONROE,  
WILLIAM PINKNEY.

P. S. We are preparing a letter to you, explanatory of the project of a supplemental convention mentioned above, which will be forwarded in a few days. A copy of the project of the British commissioners will be enclosed. It is not our intention to proceed, even if this government should be so disposed, to do any thing conclusive upon the subjects embraced by it, until the views of the President shall be known to us relative to such of the topicks as were not contemplated by the instructions originally given to the mission.

*London, April 25, 1807.*

SIR,—We had the honour to inform you, in our letter of the 22d inst. that the British commissioners having proposed to us to endeavour to adjust the terms of a supplemental convention relative to boundary, to a trade by sea between the United States and the British northern colonies, and to the subjects reserved for future explanation by the 2d article of our treaty, we had resumed our conferences with them, and had made considerable progress in digesting the plan of such a convention, when the business was interrupted by an entire change of the king's ministers. It is the purpose of this despatch concisely to explain that negotiation and its objects.

After many interviews and much discussion, the British commissioners at length presented to us the project, of which a copy is now transmitted, differing in many essential particulars from that which had been originally offered on our part.

The first article in our plan, which, like the first article in their project, defined the connecting line between the mouth of the St. Croix, as heretofore settled by commissioners, and the bay of Fundy, was copied from the convention of Mr. King and lord Hawkesbury, and, adopting the ship channel between Deer Island and Campo Bello Island, first included and then excepted the latter. The British commissioners alleged that the article in that shape accomplished its object by a useless inconsistency; that it gave a line of property and jurisdiction beyond its own views, merely to furnish occasion for an exception of almost equal importance with the whole residue of the subject; and that the navigation of the east passage being secured to the United States by a precise provision, the whole effect of the first article of the convention of 1803 would be produced at once by running the line along the middle of the west passage. They therefore proposed an article framed on that principle, to which no objection of any weight has occurred to us. We do not perceive that in substance this article is different from the other, while it is more simple and intelligible in its plan. Even if the commencement of one of the parallel east lines, within which, by the treaty of peace, the United States are cri-

tled to all islands within twenty leagues of any part of our shores (not within the limits of Nova Scotia) should be admitted to depend upon the channel through which our line from the St. Croix is conducted to the bay of Fundy, it would probably be indifferent to the United States whether the east or the west channel were adopted. Grand Menan seems to be considerably southward of an east line drawn even from West Quoddy Head, and we know of no other island, taking into consideration the exception in the treaty of peace, to the title of which the commencement of that line can now be important.

To the 5th article, regulating our boundary in the north west, which has encountered much zealous opposition here, even in the form suggested by the British commissioners, from the prejudices, supposed interests, and mistaken view of many persons, an explanation of some of which will be found in an idle paper written by lord Selkirk, (of which a copy is enclosed) we finally objected, that the division line between our respective territories in that quarter ought to be drawn from the most north western point of the Lake of the Woods, due north or south, until it shall intersect the parallel of 49 degrees, and from the point of such intersection due west along, and with that parallel. This was agreed to by the British commissioners.

We objected also to the terms defining the extension of the west line, viz. "as far as the territories of the United States extend in that quarter." It appeared to us that by these words a great portion of the subject was in danger of being set at large; that the provision would, perhaps, do no more than establish between the parties the commencement of the line, and might of course leave it open to Great Britain to found a claim hereafter to any part of the tract of country to the westward of that commencement, upon the notions of occupancy or conquest, which you will find stated by lord Selkirk, in the paper above mentioned, or upon some future purchase from Spain, as intimated by others. We therefore proposed to omit the words in question altogether, which the concluding proviso appeared to render wholly unnecessary, even upon the ideas of the British commissioners. This was not agreed to; but it was said there would be no objection to give to this part of the description a character of reciprocity, so as to make it read as far as their said respective territories extend in that

quarter." A copy is enclosed of our plan of a fifth article, as also of the same article which the description above quoted merely made reciprocal.

It is proper to observe in this place that the project of the British commissioners contemplates, what of course had not entered into our plan, a permanent concession on our part of access through our territories in the north western quarter to the river Mississippi, for the purpose of enabling British subjects to enjoy the navigation of that river, as secured to them by the treaty of peace, and the treaty of 1794, and the like access to the rivers falling into the Mississippi from the westward. The desired concession however amounts simply to a right of passage, and is claimed, not only as an equivalent for such a permanent adjustment of boundary as is here thought, or affected to be thought, highly advantageous to us, and injurious to Great Britain, but (as regards access to the Mississippi) upon this idea, among others, that the treaty of peace, which secures to Great Britain the free navigation of that river, appears to have looked to it, in common with the treaty of 1763, as over-reaching our northern limit, and consequently as being accessible to the British in the territory of the Hudson's Bay. It is probable that this demand, so far as respects the waters falling into the Mississippi from the westward, would not be persisted in, if no other difficulty should present itself.

The 7th article of the project is wholly that of the British commissioners, and proposes to extend, as you were apprized by our letter of the 3d of January would be attempted by them for the term of the treaty, the privileges of trade and inland navigation, secured by the 3d article of the treaty of 1794, to the territories of the contracting parties to the north and south of the dividing line established by the 5th article, in other words, to Louisiana and the territories of the Hudson's Bay company, with the exception only of the actual settlements of that company and their immediate neighbourhood. This, if agreed to, must undoubtedly be considered as a concession to Great Britain; although the proposed arrangement throws open to us for the first time the territories of the Hudson's Bay; although they still insist that their admission into the trade of Louisiana is a necessary consequence of our acquisition of it, coupled with the third article of the treaty of 1794; and

although they sometimes intimate that the independent tribes of savages who inhabit that vast region have a right to carry on within it their usual traffick with whom they please, and of course to authorize a continuance of the customary British trade to which this article relates; and, if not absolutely to authorize it, at least to give to Great Britain a claim upon the United States for a recognition of it (especially in connexion with the treaty of 1794) upon fair terms and equivalents. We resisted this proposal by every consideration which has been stated by you, or has occurred to ourselves. We dwelt particularly upon the high motives of duty and the urgent views of policy, connected with the publick tranquillity, as suggested by recent facts, or by the state and peculiar population, as far as they were known, of the country to the westward of the Mississippi, as well as by the nature and character of the traffick itself, which were likely to influence our government against any plan, which should admit British or any other foreign traders into it. We were not able, however, to produce any disposition to dispense with this demand, and had abundant reason to apprehend that a rejection of it by the United States would be considered here as an unfriendly act without an adequate motive, and might prevent the completion of any satisfactory arrangement of the other points embraced by the proposed convention. Still, if the consideration of this subject should be resumed, we shall not fail to renew our efforts, whatever may be the prospect of success, to reconcile this government to the failure of this favourite object, unless the instructions we may receive from you should appear to point to a different course.

There is another feature in this article which it is proper to notice. It relates to a subject with which you are already familiar, the mode of calculating the *ad valorem* duties on goods imported into the United States, under the 3d article of the treaty of 1794. The calculation is understood to be made upon the value in Canada, not upon the value at the place of original exportation. This is complained of, not as a hardship merely, but as a plain infringement of the treaty. The object is not perhaps of such value as to make a perseverance in this doubtful practice desirable, and it is certain that the explanation, if made at this time (and if not made now, it will probably



be pressed hereafter with increased zeal, as being demanded by good faith) will be received in this country as the effect of a just and liberal policy towards Great Britain. The remaining provisions of the article in favour of Great Britain are of no importance, and will perhaps be best explained by the enclosed copy of an "extra official communication with regard to the Canada trade," made to us by lord Holland and lord Auckland some time ago.

The 8th article of the project relates to a trade by sea, between some port or ports of the British northern provinces and the United States, in the vessels of either party. The article is not such as we entirely approve, but connected with an act of parliament, which it was proposed to pass immediately, and of which the draft was shown to us by the British commissioners, it would perhaps go near to accomplish the object of our government. Our project contained an article upon this subject proposing an open trade in native productions, with the same system of duties as is contained in our treaty. We were told that, although well disposed towards our object, it was impossible for the government to venture at present upon a measure striking so plainly and essentially at their colonial system; that with the aid of the good understanding between the two countries, which would grow out of the adjustment of all points of difference, their plan would be found in its practical effect to be nearly, if not altogether as convenient and beneficial to us as our own; and that, by taking a form as little calculated as possible to alarm the advocates of rigorous monopoly, it was the more likely to become the successful means of introducing more enlightened opinions, and a more liberal practice into the whole colony system of this country.

The 9th article merely prescribes the duration of the commercial articles of the convention.

We ought to add that we had inserted in our project upon the subject of boundary an article relative to Grand Menan, but found it impracticable to retain it; the British commissioners had been induced to believe that Great Britain had been in possession of that island for a great number of years; and that, although this possession might not amount to a title, it was a reasonable ground upon which to presume every thing which constituted title, so as to make it improper for them to bring it into question. We



argued in vain that the title to Grand Menan must depend upon two plain questions of fact ; whether, being within 20 leagues of our shores, it was included within the parallel east lines described in the treaty of peace as comprehending the islands which should belong to the United States ; and whether, if that should be so, it was at the making of that treaty, or at any time before, within the limits of Nova Scotia : that it was impossible to pretend that the last of these questions could be answered in favour of Great Britain, and that there was strong reason to believe that the answer to the first would be found to be in favour of the United States : that their possession, such as it was (although its precise nature did not appear, and ought not to be taken for granted) commenced after the treaty of peace, and could neither give them a title, nor in any fair reasoning, applicable to the claims of sovereign states, justify a presumption of those facts upon which their title must rest ; facts which were so easily capable of ascertainment, and which it was the immediate object of our article to ascertain in the same manner as other disputed facts relative to boundary had already been, and again were by this convention proposed to be ascertained. It was retorted that our title to Moose Island, Frederick Island, and Dudley Island, in the bay of Passamaquoddy, was, under the treaty of peace, of a very questionable kind ; and that, even if it should be admitted that their title to Grand Menan was also doubtful, it was but a fair and equitable compromise that, as we were suffered to hold, principally upon the score of possession, three islands to which Great Britain might make out a claim of considerable strength, she should on her part be suffered to retain, upon the same score of long possession, the only island, not given up to the United States, to which they seemed to think they had any shadow of pretension. We replied by denying that it was at all doubtful that these islands belonged to the United States ; but as it was evident that there was no disposition to yield upon the main point, we finally thought it most advisable to forbear to press the subject for the present, and to leave the case of Grand Menan for future adjustment, as an independent case, freed from the disadvantage of this idea of compromise.

We have only to repeat, what is stated in our last, that we do not mean in any event to act conclusively upon the

project in question, until the views of the President, relative to such parts of it as were not embraced by our original instructions, shall have been communicated to us. The intimations thrown out towards the end of our despatch of the 3d of January, may, perhaps, produce such a communication.

We have the honour to be, &c.

JAMES MONROE,  
WILLIAM PINKNEY.

ADDITIONAL AND EXPLANATORY ARTICLES,

*Signed the                      day of                      1807, to be added to the  
Treaty of Amity, Commerce, and Navigation, between  
his Britannick Majesty and the United States of America,  
signed at London the 31st day of December, 1806.*

WHEREAS by the second article of the treaty of amity, commerce, and navigation, concluded at London, on the 31st of December, 1806, between his majesty and the United States of America, it is agreed, that the several articles of the treaty of 1794, "which have not expired, nor as yet had their full operation and effect, shall be confirmed in their best form and in their full tenour; and that the contracting parties will also, from time to time, enter into friendly explanations on the subject of the said articles, for the purpose of removing all such doubts as may arise or have arisen, as to the true import of the same, as well as for the purpose of rendering the said articles more conformable to their mutual wishes and convenience," and it being the sincere desire of his majesty, and of the United States, that certain points should be so explained as to promote mutual satisfaction and friendship, and for this purpose the respective plenipotentiaries who concluded and signed the aforesaid treaty of the 31st of December, 1806, having already exchanged their full powers, have in virtue of the same entered into these additional and explanatory articles.

ART. 1. The line herein after described shall, and is hereby declared to be the boundary between the mouth of the river St. Croix and the bay of Fundy; that is to say, a line beginning in the middle of the channel of the river St. Croix at its mouth, as the same has been ascertained

by the commissioners appointed for that purpose ; thence through the middle of the channel between Deer Island, Marvel Island on the east, and Moose Island, Dudley Island, and Frederick Island on the west, and round the south point of Campo Bello Island to the bay of Fundy, and the islands and waters eastward of the said boundary are hereby declared to be within the jurisdiction and part of his majesty's province of New Brunswick ; and the islands and waters westward of the said boundary are declared to be within the jurisdiction and part of Massachusetts, one of the said United States ; notwithstanding which, a full and entire right of navigation is reserved to the United States in the channel between Deer Island on the east and north, and Moose Island and Campo Bello Island on the west and south, and round the east point of Campo Bello Island into the bay of Fundy, the aforesaid channel frequently affording the only convenient and practicable navigation.

ART. II. And whereas it has become expedient that the north west angle of Nova Scotia mentioned and described in the treaty of peace between his majesty and the United States, should be ascertained and determined, and that the line between the source of the river St. Croix and the said north west angle of Nova Scotia, should be run and marked according to the provisions of the said treaty of peace ; it is agreed, that for this purpose, commissioners shall be appointed in the following manner, viz. one commissioner shall be named by his majesty, and one by the President of the United States, by and with the advice and consent of the Senate thereof ; and the said two commissioners shall agree in the choice of a third, or if they cannot agree, they shall each propose one person, and of the two names so proposed, one shall be taken by lot, in the presence of the two original commissioners ; and the three commissioners so appointed shall be sworn impartially to ascertain and determine the said north west angle of Nova Scotia, pursuant to the provisions of the said treaty of peace ; and likewise to cause the same boundary line between the source of the river St. Croix, as the same has been determined by the commissioners appointed for that purpose, and the north west angle of Nova Scotia, to be run and marked according to the provisions of the treaty aforesaid ; the said commissioners shall meet at Boston, and have power to adjourn to such other place or places as they

shall think fit ; they shall have power to appoint a secretary, and employ such surveyors and other assistants as they shall judge necessary. The said commissioners shall draw up a report of their proceedings, which shall describe the line aforesaid, and particularize the latitude and longitude of the place ascertained and determined as aforesaid to be the north west angle of Nova Scotia, duplicates of which report, under the hands and seals of the said commissioners (or a majority of them) together with duplicates of their accounts, shall be delivered to such persons as may be severally authorized to receive the same in behalf of their respective governments ; and the decision and proceedings of the said commissioners, or of a majority of them, made and had as aforesaid, shall be final and conclusive.

ART. III. It is further agreed, that the said commissioners, after they shall have executed the duties assigned to them in the preceding article, shall be, and they hereby are authorized, upon their oaths, impartially to ascertain and determine the north westernmost head of Connecticut river, according to the provision of the aforesaid treaty of peace ; and likewise to cause the boundary line, described in the said treaty of peace, between the north west angle of Nova Scotia and the said north westernmost head of Connecticut river, to be run and marked, pursuant to the provisions of the said treaty : the said commissioners shall meet at Boston, and have power to adjourn to such other place or places as they shall think fit ; they shall have power to appoint a secretary, and employ such surveyors and other assistants as they shall judge necessary. The said commissioners shall draw up a report of their proceedings, which shall describe the boundary line aforesaid, and particularize the longitude and latitude of the north westernmost head of Connecticut river, duplicates of which report, under the hands and seals of the said commissioners, or of a majority of them, together with duplicates of their accounts, shall be delivered to such persons as may be severally authorized to receive the same, in behalf of their respective governments, and the decision and proceedings of the said commissioners, made and had as aforesaid, shall be final and conclusive.

ART. IV. It is further agreed, that the aforesaid commissioners shall respectively be paid in such manner as

shall be agreed between the two parties, such agreement to be settled at the time of the ratification of this convention; and all other expenses, incurred by the said commissioners, shall be defrayed jointly by the two parties, the same being previously ascertained and allowed by the said commissioners; and in case of death, sickness, or necessary absence, the place of any commissioner shall be supplied in the same manner as such commissioner was appointed, and the new commissioner shall take the same oath and do the same duties.

ART. V. It is agreed that a *line drawn due west from the Lake of the Woods* along the forty-ninth parallel of north latitude, shall be the line of demarcation between his majesty's territories and those of the United States to the westward of the said lake, *as far as the territories of the United States extend in that quarter*, and that the said line shall, *to that extent*, form the southern boundary of his majesty's said territories, and the northern boundary of the said territories of the United States, provided that nothing in the present article shall be construed to extend to the north west coast of America, or to the territories belonging to, or claimed by either party, on the continent of America, to the westward of the Stony mountains.

ART. VI. It is agreed by the United States that his majesty's subjects shall have at all times free access from his majesty's aforesaid territories by land or inland navigation, into the aforesaid territories of the United States, to the river Mississippi, with the goods and effects of his majesty's said subjects, in order to enjoy the benefit of the navigation of that river, as secured to them by the treaty of peace between his majesty and the United States, and also by the third article of the treaty of amity, commerce, and navigation of 1794. And it is further agreed that his majesty's subjects shall in like manner, and at all times, have free access to all the waters and rivers falling into the western side of the river Mississippi, and to the navigation of the said river.

ART. VII. It is agreed that the privileges of intercourse and trade by land, or inland navigation, secured to his majesty's subjects, and to the citizens of the United States, and to the Indians dwelling on each side of the boundary line between the respective territories of the high contracting parties, on the continent of America, by the third



article of the treaty of amity, commerce, and navigation between his Britannick majesty and the United States of America, signed at London the 19th of November, 1794, as well as by the explanatory article, concluded at Philadelphia, in 1796, shall extend to all the territories belonging to either of the high contracting powers on the continent of America (the actual settlements of the Hudson's Bay company and the intermediate neighbourhood of those settlements always excepted) situated on either side of any part of the boundary line described in the preceding article, so that all the rights and privileges secured to his majesty's subjects and to the citizens of the United States, by the aforesaid article of the treaty of 1794, as well as by the explanatory article of 1796, shall be enjoyed by them in the aforesaid territories. It is farther agreed that goods or merchandise imported by land or inland navigation from the territories of the one power into those of the other, shall not be subjected to other or higher duties, when so imported, than would be payable for the same goods if imported into the said territories from Europe, or from beyond the seas; and therefore, that the value of the said goods and merchandise shall be estimated by their respective custom-house officers, in the same manner as if they were so directly imported from Europe or from beyond the seas. It is farther agreed that no duties shall be exacted from the traders of either power, for licenses to trade with the Indians for themselves, their servants or their canoemen, or for passes for their canoes, or for any other purpose whatever. But if such licenses are required by either power as a measure of police or internal regulation, they shall be granted by the power requiring them to the subjects or citizens of the other without any fee or gratuity, and shall not be withheld from any person demanding them for himself, his servants, or his canoemen, except for some offence committed or impropriety of conduct on the part of the person for whom the license is demanded. It is farther agreed, that no restrictions or limitations shall be applied by either power to the trade of the subjects or citizens of the other power, with the Indians living on its own side of the boundary line, except such limitations and restrictions as a regard to its own safety may from time to time compel it to adopt, with regard to the trade of its own subjects or citizens.



ART. VIII. Whereas it is expedient that the exchange of gypsum, grindstones, and certain other articles of the produce of his majesty's colonies in North America, and of British manufactures, and British West India produce, to be exported from the said colonies in return for horses, cattle, grain, provisions, slaves, pitch, tar, turpentine, and certain other articles the produce of the United States, shall be permitted, encouraged and regulated by sea, between the subjects of his majesty and the citizens of the United States : it is agreed that measures shall be taken as speedily as may be, for giving a legalized exchange and intercourse for the purposes aforesaid, at such port or ports as shall be fixed for the vessels of either party with such fair and equal regulations, restrictions or extensions, from time to time, as may best promote the said objects consistently with the respective and essential interests of navigation and trade.

ART. IX. Lastly. This treaty, when the same shall have been ratified by his majesty and the President of the United States, by and with the advice of their Senate, and the respective ratifications mutually exchanged, shall be binding and obligatory upon his majesty and upon the said states, and shall be by them respectively executed and observed with punctuality, and the most sincere regard to good faith ; and it is agreed, that the first six articles of this treaty shall be permanent, and that the seventh and eighth articles shall be limited in their duration to ten years, to be computed from the day on which the ratification of the treaty of amity, commerce and navigation, signed at London on the 31st of December last, shall have been exchanged.

In faith whereof, we the undersigned plenipotentiaries, on the part of his majesty the king of the united kingdom of Great Britain and Ireland, and the commissioners extraordinary and plenipotentiaries on the part of the United States of America, have signed this present convention, and have caused to be affixed thereto the seal of our arms.

Done at London, the                      day of                      one  
thousand eight hundred and seven.

## ARTICLE V.

*(As proposed by the American Commissioners.)*

It is agreed that a line drawn due north or south (as the case may require) from the most north western point of the Lake of the Woods, until it shall intersect the 49th parallel of north latitude, and, from the point of such intersection due west along and with the said parallel, shall be the dividing line between his majesty's territories and those of the United States to the westward of the said lake ; and that the said line, to and along and with the said parallel, shall form the southern boundary of his majesty's said territories, and the northern boundary of the said territories of the United States ; provided that nothing in the present article shall be construed to extend to the north west coast of America, or to the territories belonging to, or claimed by, either party on the continent of America to the westward of the Stony Mountains.

## ARTICLE V.

*(As the British Commissioners have agreed to make it.)*

It is agreed that a line drawn due north or south (as the case may require) from the most north western point of the Lake of the Woods, until it shall intersect the 49th parallel of north latitude, and from the point of such intersection due west along, and with the said parallel, shall be the dividing line between his majesty's territories and those of the United States to the westward of the said lake, *as far as their said respective territories extend in that quarter* ; and that the said line shall, *to that extent*, form the southern boundary of his majesty's said territories, and the northern boundary of the said territories of the United States : provided that nothing in the present article shall be construed to extend to the north west coast of America, or to the territories belonging to, or claimed by either party on the continent of America, to the westward of the Stony Mountains.

## DUPLICATE.

*London, May 7, 1807.*

SIR,—We had the honour to receive, on the 27th of last month, your letter of the 18th of March, to which the detailed explanations contained in our letter of the 22d and 25th ult. render any particular reply unnecessary.

We transmit enclosed a statement of the American prize causes, for hearing in the high court of appeals. That which was forwarded by Mr. Purviance was very hastily prepared by general Lyman, under a misconception of our views, and included only cases in the high court of admiralty.

We have the honour to be, &c.

JAMES MONROE.

WM. PINKNEY.

James Madison, Esq. &c. &c. &c.

*London, October 10, 1807.*

SIR,—We avail ourselves of the opportunity afforded by the return of the schooner *Revenge*, to give you a brief account of the transactions of the joint mission, from the time of Mr. Purviance's arrival in England, until the receipt of intelligence here of the late outrage in the American seas, upon the sovereignty of our country.

Your letter of the                      day of May, was delivered to us on the                      day of July, and we lost no time in obtaining an interview with Mr. Canning, on the subjects to which it relates. In the course of that interview, we entered at large into the explanations required by our instructions, and at the same time recalled to Mr. Canning's attention, the statement which we had made to him at former conferences, relative to our want of power to bind our government by a treaty which should not provide in a satisfactory manner for the subject of impressment. That we might be enabled to give to Mr. Canning a more complete view of the grounds of the President's disapprobation of the instrument signed in December last, and of the alterations in that instrument which we had to

propose, we thought it advisable to suggest these alterations in the margin of a copy of it, and to prepare moreover separate clauses relative to impressments and indemnity. Of these papers copies are herewith transmitted.

We had scarcely finished our explanations when Mr. Canning intimated the propriety of putting them into the form of a note. He expressed, however, his readiness and his wish, for the purpose of saving time, to receive immediately the papers above mentioned, which, as containing the project of such an arrangement as would be acceptable to the President, we did not hesitate to deliver to him. An official note being required by Mr. Canning, we had no choice but to consent to that course, and as you will find in the copy of the note itself a brief recapitulation of the substance of what we thought it prudent to say to him in that stage of the transaction upon the principal points embraced by it, it is unnecessary to repeat it here. It is proper, however, to observe that although nothing was said by Mr. Canning which authorized us to calculate with certainty on the ultimate success of renewed negotiation, there was nothing in his language or manner of an unfriendly character.

Our note was prepared with as much expedition as the importance and delicacy of its topics would permit; but before it was possible to send it to Mr. Canning he reminded us of it by a note of which a copy is enclosed. Our note, which we hope will meet with the President's approbation, was delivered to Mr. Canning on the next day.

We did not think it proper, for obvious reasons, either in conversation or in our note, to enter into any argument in support of the different alterations suggested by our project to the proposed treaty. This it was thought would be more regularly as well as advantageously attempted when negotiation should be resumed. It is only necessary to add, that, before Mr. Canning had replied to our note, information was received of the outrage committed by the *Leopard*, and that our proceedings were in consequence suspended.

We have the honour to enclose the copy of a bill delivered to us some time ago by lord Auckland, for permitting an intercourse by sea between the British North Ame-

rican colonies and the United States. This bill was brought into the house of commons during the last session of parliament by Mr. Rose and Mr. Eden, and has passed into a law. You will perceive that it has in view the 8th article of the project of a convention of limits already transmitted to you. A copy is also enclosed of the communication which we have thought it our duty to make to general Armstrong and Mr. Bowdoin.

We have the honour to be, &c.

JAMES MONROE,  
WM. PINKNEY.

James Madison, Esq.

P. S. We have the honour to acknowledge the receipt of your letters of the 17th and 30th of July. There not being time to prepare copies of the project presented Mr. C. for Dr. Bullus, it will be forwarded by another opportunity without delay.

WILLIAM PINKNEY.

*London, July 24, 1807.*

THE undersigned, ministers extraordinary and plenipotentiary of the United States of America, have the honour to inform Mr. Canning that they are instructed by the President of the United States, to propose to his majesty's government a renewal of negotiation relative to the objects of the mission of the undersigned, with a view to a more satisfactory result than is found in the instrument signed on the 31st of December last, by his majesty's plenipotentiaries and those of the United States.

The undersigned are persuaded, that his majesty's government will see in this measure an unquestionable proof of the sincere desire of the President, to place the friendly relations of the two countries beyond the reach of those misunderstandings which either the absence or the inadequacy of precise arrangements on subjects of the greatest delicacy and importance, might from time to time occasion.

It is under the influence of this solicitude that the President has charged the undersigned to express to his majesty's government, his unfeigned regret that the instru-

ment above mentioned does not appear to him to be such as he can approve, and at the same time to declare his entire confidence that the just and liberal sentiments which animate his majesty's government, corresponding with those which belong to the government of the United States, cannot fail to lead, without delay or difficulty, to such an issue of the negotiation which is now proposed, as shall be suited in all respects to the rights and interests of both nations, and therefore calculated to ensure a long continuance of the friendship which so happily subsists between them.

The undersigned have already had the honour to present to Mr. Canning a paper, which, taken in connexion with a project on the subject of impressment, and another on the subject of certain claims to compensation by American citizens, presented by the undersigned at the same time, will be found to exhibit a complete view of the alterations which the instrument above mentioned is deemed by the President to require. They forbear to trouble Mr. Canning with a recapitulation of the details which these papers contain; but there are some explanations upon the topics of impressment and compensation, which they do not furnish, and which it is therefore incumbent upon the undersigned to avail themselves of this occasion to give.

It was one of the primary objects of the mission of the undersigned, to adjust with his majesty's government a formal and explicit arrangement, relative to a practice by British ships of war, which has excited in a very great degree the sensibility of the American people, and claimed the anxious attention of their government. The practice alluded to, is that of visiting on the main ocean, the merchant vessels of the United States, navigating under the American flag, for the purpose of subjecting their crews to a hasty and humiliating inquisition, and impressing, as British seamen, such of the mariners as, upon that inquisition, the visiting officer declares to be so. The effect of this practice is that the flag of an independent power is dishonoured, and one of the most essential rights of its sovereignty violated; that American citizens either mistaken for British subjects, or assumed to be such without sufficient inquiry, are forced from the quiet pursuits of a lawful commerce into the severe and dangerous service



of a foreign military navy, to expose their lives in fighting against those with whom their country is at peace; and that the merchant vessels of the United States are frequently thus stripped of so large a portion of their hands, before their voyages have been performed, as to bring into the most imminent peril, and sometimes to produce the actual loss, of the vessels, their cargoes, and their remaining crews. It cannot be thought surprising that a practice like this should act with peculiar force upon the feelings of those whom it oppresses, and that the sensation should extend itself to their countrymen and their government.

The government of the United States has accordingly made this pretension the subject of frequent discussion with Great Britain; and, when an extraordinary mission to his majesty's government was last year determined on, it was one of the instructions to the undersigned, to whom the duties of that mission were confided, to make no treaty which should not provide for that object. In the first stages of the negotiation, which followed that mission, the undersigned were led to indulge a confident expectation that such a provision would be obtained. At length however, the rejection by his majesty's government of a project of an article on this point, which, without touching the question of right, offered, on the part of the United States, an effectual equivalent for the mere forbearance of the practice, having extinguished all hope of an immediate adjustment of this subject by treaty, the undersigned felt that they were called upon by candour, as well as by their duty to their government, to inform the British commissioners, that, the project relative to impressment having failed, they had no power to conclude a treaty upon the other points which had been discussed between them, so as to bind the government of the United States. The undersigned did accordingly give them this information, in the most explicit terms, and the negotiation was in consequence, for a short time, suspended. It was soon afterwards, however, suggested by his majesty's commissioners, that if this topick should be expressly reserved for future conventional arrangement, and a pledge given to the United States for resuming the consideration of it at a convenient season with that view, and if in the mean time such an informal understanding should be substituted, as

in its practical effect would remove the vexation complained of, it might perhaps be *yet* possible to conduct the negotiation to a result which would not be unacceptable to the respective governments : and in pursuance of this suggestion, the British commissioners presented to the undersigned, on the 8th day of November last, the official note, of which a copy is herewith enclosed. The undersigned transmitted to their government, for its consideration, a copy of this note, together with a statement of the circumstances connected with it, and, without giving it their sanction, agreed in the mean time to concur with the British commissioners, as they were invited to do, in an effort to adjust the stipulations of a treaty, upon the remaining objects of their mission, and leave the effect of what should be so adjusted to their government.

It appears that the President of the United States considers this collateral proceeding upon a concern of such paramount importance as unsuitable to the nature of it, as well in the mode as in its terms. In this opinion, the President does but continue to respect the considerations which heretofore induced him to believe that an arrangement upon this point ought to stipulate with precision against the practice in question, and that the manner of it would properly be that which should be chosen for the arrangement of the other points of discussion, and in the instructions which, in conformity with that opinion, he has now given to the undersigned, he does but manifest his reliance upon the spirit of justice and amity, which he is assured his majesty's government will bring to the renewed consideration of a subject so interesting to the rights and feeling of a friendly nation, for such an adjustment of this, as well as of every other question belonging to the relations of the two countries, as shall confirm their dispositions to mutual kindness, and promote the happiness and prosperity of both.

The subject of compensation will perhaps be sufficiently explained by the enclosed copies of two notes from the undersigned to lord Holland and lord Auckland, and to lord Howick.

It will appear from the last of these notes that this subject, for which the projected treaty did not provide, was not to be affected by it ; but on the contrary, that the rights of the United States and the claims of their citizens

were understood to be reserved for future adjustment, as completely as if no treaty had been made : and it will occur to Mr. Canning that the project of an article on this point, which they had the honour to leave with him at their last interview, is in the spirit of that understanding, and is besides so entirely free from objection, that no motive is likely to exist against the adoption of it.

There is another object to which the undersigned have the orders of the President to invite the attention of his majesty's government, as affecting materially, and giving a new and unexpected character to the proposed treaty. They allude to the written declaration, relative to the French decree of the 21st of November last, by which his majesty's plenipotentiaries accompanied their signature of the treaty ; a declaration which in its actual form creates unnecessary embarrassments in the way of an acceptance of the treaty by the United States. The undersigned persuade themselves that as this proceeding, to which no sanction was given on their part, imposed on the United States no new obligation, could only be intended to declare that in signing or ratifying the treaty it was understood by Great Britain that nothing contained in it would be a bar to any measure, which if no such treaty had been signed, would be lawful as a measure of retaliation against her enemy, and as the occasion which produced it does not now appear to exist as then supposed, it will not be thought that any thing is sacrificed by withdrawing it as unnecessary.

The undersigned request Mr. Canning to accept the assurances of their distinguished consideration.

JAMES MONROE,  
WILLIAM PINKNEY.

The Rt. Hon. George Canning, &c. &c. &c.

*Copy of proposed Alterations.*

ARTICLE III.

OMIT the words "and sailing direct from the ports of the said States."

Omit the words "between the said territories and the United States," and substitute "with the said territories."

After the words near the end of the first paragraph, "where the same shall be unladen," insert "or to some port or place, or ports or places, in China, on the Indian or other seas beyond the Cape of Good Hope, from whence the said vessels shall proceed as aforesaid to some port or place in America, and there unlade their cargoes."

After the words "British territories," near the beginning of the second paragraph, insert "without the special permission of the British government there."

After the words "St. Helena," near the end of the article, insert "or at such other places as may be in the possession of Great Britain in the African or Indian seas."

At the end of the article add, "and it is further agreed, that if any other trade in and with the said British territories in the East Indies, than is hereby authorized, or any other, or greater rights, or advantages in respect thereof, shall be granted or permitted to the citizens or subjects of any European nation, the same shall be common to the citizens of the United States."

#### ARTICLE V.

At the end of the first paragraph insert, "nor shall any higher duties or charges be imposed in one country, on the exportation of any articles to the ports of the other, than such as are payable on the exportation of the like articles to every other foreign country."

#### ARTICLE VII.

Propose to strike out the last paragraph.

#### ARTICLE VIII.

Omit the words "on just suspicion of having on board enemy's property, or of carrying to the enemy any of the articles which are contraband of war."

Omit the word "other," immediately following these words, and substitute "any."

Omit the words "if any property of an enemy should be found on board of such vessel."

Omit the words, "belonging to an enemy."  
Omit the word "otherwise."

## ARTICLE IX.

After "tar and pitch," add "turpentine and rosin."

## ARTICLE X.

At the end of the first paragraph, introduce a definition of the blockade, "in order to determine what characterizes a blockade, that that denomination is given only to a port where there is, by the disposition of the power which blockades it with ships stationary, an evident danger in entering."

## ARTICLE XI.

Omit "during the present hostilities."

After the word "Europe," which immediately follows the above words, insert "or elsewhere."

Insert the same words after the word "Europe," in the second branch of the provision.

After the word "paid," insert "or secured to be paid."

After the words "and shall," in the proviso about duties, insert "except only mahogany and fustick."

At the end of the paragraph which precedes the last proviso, introduce the following: "It is understood that no inference is to be drawn from this article to affect any question now, or hereafter to be judicially depending, touching the legality or illegality of a direct trade from Europe or elsewhere, by citizens of the United States, with enemies' colonies beyond the Cape of Good Hope."

## ARTICLE XII.

Omit the last paragraph.

And the following words in the first paragraph, "except for the purpose hereafter mentioned."

## ARTICLE XIII.

In the first paragraph of the article, omit the words "as favourably as the course of the war then existing may possibly permit towards the most friendly power that may remain neuter," &c. and the words "as possible," so as to make it read thus, "according to the acknowledged principles and rules of the law of nations, and as favourably, moreover, as the course of the war then existing may possibly permit towards the most friendly power that may remain neuter."

## ARTICLE XVII.

To be struck out, and the following inserted :

The ships of war and privateers of the two nations, as well as their prizes, shall be treated in their respective ports as those of the nation most favoured.

## ARTICLE XIX.

The two last paragraphs to be struck out.

## ARTICLE XXIII.

To stand thus : "It is agreed that in case either party shall hereafter grant any additional advantage in navigation or trade to any other nation, the subjects or citizens of the other party shall fully participate therein freely, where it is freely granted to such other nation, or yielding the same compensation where the grant is conditional."

## ARTICLE XXVI.

Period to be five years.

## INDEMNITY ARTICLE.

Complaints having been made by divers merchants and others, citizens of the United States, that during the war in which his majesty is engaged, they have sustained loss



and damage by reason of the irregular or illegal captures or condemnations of their vessels and other property, under colour of authority, or commissions from his majesty, contrary to the tenour of a communication from lord Hawkesbury to Mr. King, of the 11th April, 1801, of which a copy is annexed to this treaty, or contrary to the tenour of a letter from Mr. Merry to Mr. Madison, of the 12th April, 1801, of which also a copy is hereto annexed, or otherwise contrary to the known and established rules of the law of nations; and the said merchants and others having further complained that full and complete redress for the said losses and damages has not been, and cannot be, for various causes, had and obtained, in the ordinary course of judicial proceedings; his majesty agrees that he will, without delay, cause the most effectual measures to be taken in concert with the United States, for an impartial examination of the said complaints; and that he will cause full and complete reparation to be made thereupon to the parties entitled, as justice and equity, and the nature of the respective cases shall appear to require.

*London, Oct. 22, 1807.*

SIR,—We have the honour to transmit enclosed a duplicate of our joint letter to you by doctor Bullus, together with a copy of the project of alterations to which it refers, and which could not be prepared in time to be sent with the original. We also enclose a printed copy of the act of parliament, relative to an intercourse by sea between the United States and the British North American colonies, of which a manuscript copy has already been transmitted.

Since the departure of doctor Bullus, communications have taken place between Mr. Canning and ourselves, with which it is proper that you should be made acquainted.

On the 15th instant we received from Mr. Canning a note requesting a conference on the following Saturday, (the 17th.) accompanied by a note, of which a copy is enclosed, explanatory of the purpose for which the conference was desired. Our reply was merely that we should wait on him at the time proposed. Mr. Canning opened this conference by observing that, before he stated the view

which his government had taken of the subject to which his note alluded, he had to request, if we saw no objection to it, an explanation of that part of our official note of the 24th of July, which, speaking of the written declaration of the British commissioners of the 31st of December last, suggests an opinion that the occasion which produced it "does not now appear to exist as then supposed." He then read the concluding paragraphs of the declaration, and observed that it was with a view to the reservation contained in them, that his inquiry, which we might be assured had the most friendly motive, was made. We replied by stating with exactness the real foundation of the opinion in question, which, as he seemed to wish it, we promised to repeat in a note to be sent to him without delay. A copy of the note afterwards delivered to him in pursuance of this engagement, being among the enclosures, we beg leave to refer to it for the substance of what was stated by us upon this point in conversation.

Mr. Canning closed this interview by saying, that he feared it would be necessary to postpone what he had farther to communicate, until another opportunity, and requested us to meet him again on Monday the 19th. Supposing that he was not in town on Sunday, and that nothing would be gained by sending in our promised note, before the time appointed for our adjourned conference, we took the note with us, and delivered it ourselves on Monday. Mr. Canning appeared to be satisfied with the explanation, to which we thought it our duty strictly to confine ourselves; but he did not seem to be prepared to proceed with the conference, and intimated that he would be glad to meet us again for that purpose, on the Thursday or Friday following, and would give us notice which of these days would be most convenient.

A proclamation, relative to the searching of the national and merchant vessels of neutral powers for British seamen, having appeared in the London gazette, on the 17th, with which the newspapers already forwarded and now sent will make you acquainted, we thought this a suitable occasion, of which it was incumbent on us to take advantage, for leading to an explanation of that proceeding. We began by expressing a hope that this paper was not intended to shut the door against negotiation and con-

cession. on the subject of impressment, on board the merchant vessels of the United States, upon which Mr. Canning already knew the opinion and feeling of our government. Mr. Canning replied, that the proclamation was not intended to have that effect, that it was simply a statement of the principles and practice, upon the points to which it relates, which the British government understood to be warranted by publick law, and long established usage ; that such a statement did not exclude the idea of amicable discussion and adjustment with a power which favoured a different doctrine, and sought for the introduction of a different practice ; that as it did no more than declare with truth and precision the past and actual state of their rules upon these interesting points, no more was done by it to shut the door against negotiation and arrangement with the United States, than would have been done without it by the mere operation of the rules themselves, of which it was declaratory ; that while in this view it could have no inconvenient effect, it was manifestly useful, and imperiously required in another ; that it was indispensably necessary for the information of their naval commanders, especially upon distant stations, who, after what had lately happened, would, without some such guide, be at a loss to know how to regulate their conduct, and would thus be exposed to the perpetual hazard either of falling short of their duty or of exceeding it, in matters of the highest moment ; that it was so far from being meant to wear an unfriendly appearance, or to increase the difficulties in the way of a good understanding with our country, that it was believed by his majesty's government to exhibit their disposition to conciliation in a way not to be mistaken, and to facilitate the establishment of such an understanding : that the proclamation had been prepared nearly three months ago, but had not been published until it was ascertained that the subject of it could not be affected by any negotiation of which the result could soon be known ; that the effect of Mr. Rose's mission, whatever might be hoped, could not appear for some months, and that in the mean time it seemed to be proper, that without changing the state of things to the prejudice of either party. their navy should not be left to conjecture their duty on subjects of such delicacy and importance, upon which so much had occurred to produce misconception and irritation : that it

was impossible to consider in connexion his (Mr. Canning's) first note to Mr. Monroe, upon the receipt of intelligence of the affair of the *Leopard* and *Chesapeake*, the promptitude with which the king's government had disavowed an intention of asserting a claim to search national ships for deserters, the explicit prohibition of such a practice in the proclamation, at a time when it was very generally maintained by the press, and notoriously countenanced by publick opinion, as lawful, expedient and essential, and the mission which was about to proceed to the United States, without being persuaded that, in the transaction in question, the views of government were of the most friendly character.

These explanations were followed by others of a less satisfactory description. He said in the progress of the conversation, that he ought not to leave us under the impression, that there was any prospect that the government of Great Britain could recede from its declared pretensions relative to searching on the high seas the merchant ships of neutral nations for British seamen; that the present state of the world, and the nature and mode of that hostility which France was now waging against this country, of which the great instrument was avowed to be the systematick exclusion of the trade, productions, and manufactures of Great Britain and her colonies, from their usual market, rendered it to the last degree hazardous, if not absolutely impracticable, to stipulate for the abandonment of a practice to which the navy and the people of England attach so much importance, even although the government should itself be persuaded that it might be done with safety.

We endeavoured to impress upon Mr. Canning, the unfortunate influence which such views and sentiments could not fail to have upon any negotiation which might be attempted, in whatever form, between the two countries; but although his manner was as conciliatory as it could be, he did not allow us to believe, that these sentiments would be relinquished, or consequently that Mr. Rose would have powers upon the general topick of impressment.

We have not since heard from Mr. Canning, but we are every moment in expectation of an appointment for another interview.

We deem it to be so important that you should be in possession of the foregoing details, before the government of the United States takes its course relative to Mr. Rose's mission, that we have determined to send this despatch by Mr. Rose himself, who is so good as to offer to take charge of our letters. As he sails immediately in a frigate now at Portsmouth, the presumption is, that he will arrive before Mr. Monroe, who will sail in a few days in the *Augustus* for Norfolk.

We shall add in a postscript any thing that shall occur before Mr. Rose leaves town.

We have the honour to be, &c.

JAMES MONROE,  
WM. PINKNEY.

P. S. Mr. Canning's note (erroneously dated on the 17th, instead of the 15th instant,) of which a copy is enclosed, states the existence of a mutual understanding between him and us, "by which, on the receipt of the first accounts of the unfortunate encounter between the *Leopard* and the *Chesapeake*, we agreed to confine our official discussions to that single subject, until it should be finally adjusted." It may not be improper to mention, although the fact is of no real importance, that this statement is inaccurate. Upon the receipt of intelligence, that the proposed treaty of December last was not likely to be accepted by our government, there was an understanding (as heretofore explained to you) that it might be necessary to suspend our proceedings, until the arrival of more precise information upon that point, and perhaps until the arrival of our instructions. Mr. Canning confounds that epoch with the more recent one to which he alludes. His conduct, in forbearing to press our negotiation after the affair of the *Chesapeake* was known, was undoubtedly such as we approved and desired, but it did not arise out of any agreement with us.

P. S. October 24. We received yesterday evening a note from Mr. Canning, dated the 22d, transmitting the answer of this government to our note of the 24th July. Copies of these are enclosed.

JAMES MONROE,  
WM. PINKNEY.



*Mr. Canning to Messrs. Monroe and Pinkney. Foreign Office, October 17, 1807.*

GENTLEMEN,—The mutual understanding, by which, on the receipt of the first accounts of the unfortunate encounter between the Leopard and the Chesapeake, we agreed to confine our official discussions to that single subject, until it should be finally adjusted, has alone prevented me from returning long ago an official answer to your note of the 24th of July.

The nature of Mr. Monroe's instructions has unfortunately precluded that settlement which his majesty's government so anxiously desired, of the question respecting the Chesapeake by negotiation between that gentleman and myself. But that question being now put into a train of separate adjustment, by the appointment of a minister on the part of his majesty to proceed to America for that special purpose, and the return of Mr. Monroe to America making it necessary that you should be apprized of the sentiments of his majesty's government, as to the state in which the treaty signed by you and his majesty's commissioners, on the 31st of December last, is left by the refusal of the President of the United States to ratify that instrument, I have to request a conference with you for that purpose, previous to Mr. Monroe's departure.

I have the honour to be, &c.

GEORGE CANNING.

*Messrs. Monroe and Pinkney to Mr. Canning. London. October 18, 1807.*

SIR,—In our interview of yesterday you requested that we would explain the ground of the opinion which is expressed in our letter to you of July 24, that the occasion which induced the British commissioners to present to us the note of the 31st of December preceding, had ceased to exist. We hasten to comply with that request, as we shall do to give an explanation of any other passage in that letter which you may desire. We were of opinion, at the time when the British commissioners presented to us that paper, that the decree of the government of



France, to which it related, ought not to be considered applicable to the United States, because such a construction was plainly repugnant to the treaty subsisting between the United States and France, and likewise because the decree might be understood to relate only to France, and the dominions subject to her arms. We alluded, however, in our letter of July 24, to circumstances which had occurred since the date of the decree, as fixing unequivocally an interpretation of it which we at first supposed to be reasonable.

Great anxiety having been excited by a different construction, which many believed the decree to be susceptible of, the minister of the United States at Paris requested of the minister of marine, who was charged with its execution, an explanation of the sense in which it was understood by his government, who assured him that it was not intended that it should in any degree interfere with the provisions of the treaty of 1800, between the United States and France.

We relied also upon the fact, not only that no countenance had been given by any practice or judicial decision in France to a different construction, but that the practice was in precise conformity with the view above suggested; and that in a cause, in which the question had been formally brought into discussion, the court had sanctioned the conclusion, that the treaty between the two nations was to be exactly fulfilled, and that the decree was to be so construed as not to infringe it.

We think it proper to confine ourselves to the explanation which you have desired of the passage alluded to in our former letter, and not to enter in this communication, in any other respect, on the subject of the paper with which it is connected.

We have the honour to be, &c.

JAMES MONROE,  
WILLIAM PINKNEY.

*Mr. Canning to Messrs. Monroë and Pinkney. Foreign Office, Oct. 22, 1807.*

GENTLEMEN,—The considerations which have hitherto suspended our communication on the subject of the

treaty returned from America, having ceased by the termination of the discussion between Mr. Monroe and myself, respecting the encounter between the Leopard and the Chesapeake, I have now the honour to transmit to you the answer which I have been commanded by his majesty to return to your note of the 24th of July.

I have the honour to be, &c.

GEORGE CANNING.

Messrs. Monroe and Pinkney, &c. &c. &c.

THE undersigned, his majesty's principal secretary of state for foreign affairs, in returning an answer to the official note, with which Messrs. Monroe and Pinkney have accompanied their communication of the copy of the treaty, which has been sent back unratified from America, is commanded, in the first place, to inform the American commissioners, that his majesty cannot profess himself to be satisfied that the American government has taken any such effectual steps with respect to the decree of France, by which the whole of his majesty's dominions are declared in a state of blockade, as to do away the ground of that reservation which was contained in the note delivered by his majesty's commissioners at the time of the signature of the treaty; but that, reserving to himself the right of taking, in consequence of that decree, and of the omission of any effectual interposition on the part of neutral nations to obtain its revocation, such measures of retaliation as his majesty might judge expedient, it was nevertheless the desire and determination of his majesty, if the treaty had been sanctioned by the ratification of the President of the United States, to have ratified it on his majesty's part, and to have given the fullest extent to all its stipulations.

Some of the considerations upon which the refusal of the President of the United States to ratify the treaty is founded, are such as can be matter of discussion only between the American government and its commissioners: since it is not for his majesty to inquire whether, in the conduct of this negotiation, the commissioners of the United States have failed to conform themselves, in any respect, to the instructions of their government.

In order to determine the course which his majesty has to pursue in the present stage of the transaction, it is sufficient that the treaty was considered by those who signed it as a complete and perfect instrument. No engagements were entered into on the part of his majesty as connected with the treaty, except such as appear upon the face of it. Whatever encouragement may have been given by his majesty's commissioners to the hope expressed by the commissioners of the United States, that discussions might thereafter be entertained with respect to the impressment of British seamen from merchant vessels, must be understood to have had in view the renewal of such discussions, not as forming any part of the treaty then signed, (as the American commissioners appear to have been instructed to assume) but separately, and at some subsequent period more favourable to their successful termination.

But the alterations proposed by the President of the United States in the body of the treaty, thus formally concluded, appear to require more particular observation.

The undersigned is commanded distinctly to protest against a practice, altogether unusual in the political transactions of states, by which the American government assumes to itself the privilege of revising and altering agreements concluded and signed on its behalf by its agents duly authorized for that purpose, of retaining so much of those agreements as may be favourable to its own views, and of rejecting such stipulations, or such parts of stipulations, as are conceived to be not sufficiently beneficial to America.

If the American government has a right to exercise such a revision, an equal right cannot be denied to others; and it is obvious, that the adoption of such a practice by both parties to a treaty would tend to render negotiation indefinite, and settlement hopeless, or rather, to supersede altogether the practice of negotiation through authorized commissioners, and to make every article of a compact, between state and state, the subject of repeated reference, and of endless discussion. The alteration of particular articles in a treaty, after the whole has been carefully adjusted and arranged, must necessarily open the whole to renewed deliberation. The demands of one party are not to be considered as absolute, nor the concessions of the other as unconditional.

What may have been given on the one hand in consideration of advantage to be derived, in return, from accompanying stipulations, might have been refused, if those stipulations had been less favourable, and must necessarily be withdrawn, if they are changed.

It cannot be admitted that any government should hold those with whom it treats to all that has been granted by them in its favour, relaxing at the same time, on its part, the reciprocal conditions for which its own faith has been engaged, or that, after having obtained by negotiation a knowledge of the utmost extent of concession to which the other contracting party is prepared to consent in the conclusion of a treaty, it should require yet farther concession, without equivalent, as the price of its ratification.

The undersigned is, therefore, commanded to apprise the American commissioners, that, although his majesty will be at all times ready to listen to any suggestions for arranging, in an amicable and advantageous manner, the respective interests of the two countries, the proposal of the President of the United States for proceeding to negotiate anew, upon the basis of a treaty already solemnly concluded and signed, is a proposal wholly inadmissible. And his majesty has, therefore, no option, under the present circumstances of this transaction, but to acquiesce in the refusal of the President of the United States to ratify the treaty signed on the 31st of December, 1806.

The undersigned requests Messrs. Monroe and Pinkney to accept the assurances of his high consideration.

GEORGE CANNING.

*Letter from Mr. Monroe to the Secretary of State. Richmond, Feb. 28, 1803.*

SIR,—It appears by your letter of May 20th, 1807, which was forwarded by Mr. Purviance to Mr. Pinkney and myself, at London, and received on the 16th July, that you had construed several articles of the treaty, which we had signed with the British commissioners, on the 31st of December, 1806, in a different sense from that in which they were conceived by us. As the course we were instructed to pursue, by your letter of February 3d, with regard to that treaty, which was confirmed in that of May 20th.

was in no degree dependent on our construction of any of its articles, or on the political considerations which induced us to sign it, we deemed it unnecessary to enter into any explanation in reply, either of our construction of its articles, or of the political considerations alluded to. We thought it more consistent with our duty to look solely to the object of our instructions, and to exert our utmost efforts to accomplish it; and we acted in conformity to that sentiment. The result of those efforts was made known by the documents which I had the honour to present to you, when I was lately at Washington, being copies of a joint despatch, which Mr. Pinkney and I had forwarded by Mr. Rose. We had flattered ourselves, that it might have been practicable to obtain the amendments of the treaty which the President desired, as the state of affairs in Europe had become more favourable to such a result; but in that we were disappointed. We found no difficulty in accomplishing the other object, of setting it aside, as we were instructed to do, in case the proposed amendments were not acceded to.

At this time there is no objection to such an explanation, that I am aware of, and there are many reasons why it should be given. You will be sensible that, so far as an unfavourable estimate is entertained of that transaction, it must, in the degree, tend to injure those who gave it the sanction of their names; and you will be equally sensible that, if the United States are in any degree interested in it, at this time, it must consist in its being viewed in a just, rather than an unfavourable light. In retiring from the station which I have lately held, this is the last act of public and private duty, which I have to perform in relation to it. It is to me, in many views, a painful duty, but still it is one which it is highly incumbent on me to execute.

It is far from being my desire to compromit Mr. Pinkney, in this letter, in the slightest circumstance. In the management of the business which was entrusted to us jointly, we acted with the greatest harmony, and exerted our best efforts to accomplish the object of our instructions. I am not aware that, in speaking of any part of the treaty, I shall give it a construction in which he would not concur; but that presumption is founded altogether on what took place between us in the course of the negotiation. To

this communication he is not a party, nor indeed does he know that such a one will be made. In every view, therefore, it is improper, and would be unjust, that he should be considered as having any concern in it.

The impressment of seamen from our merchant vessels is a topick which claims a primary attention, from the order which it holds in your letter, but more especially from some important considerations that are connected with it. The idea entertained by the publick is, that the rights of the United States were abandoned by the American commissioners in the late negotiation, and that their seamen were left by tacit acquiescence, if not by formal renunciation, to depend, for their safety, on the mercy of the British cruisers. I have, on the contrary, always believed, and still do believe, that the ground on which that interest was placed by the paper of the British commissioners of November 8, 1806, and the explanations which accompanied it, was both honourable and advantageous to the United States; that it contained a concession in their favour, on the part of Great Britain, on the great principle in contestation, never before made by a formal and obligatory act of the government, which was highly favourable to their interest; and that it also imposed on her the obligation to conform her practice under it, till a more complete arrangement should be concluded, to the just claims of the United States. To place this transaction in its true light, and to do justice to the conduct of the American commissioners, it will be necessary to enter at some length into the subject.

The British paper states that the king was not prepared to disclaim or derogate from a right on which the security of the British navy might essentially depend, especially in a conjuncture when he was engaged in wars which enforced the necessity of the most vigilant attention to the preservation and supply of his naval force; that he had directed his commissioners to give to the commissioners of the United States the most positive assurances that instructions had been given, and should be repeated and enforced, to observe the greatest caution in the impressing of British seamen, to preserve the citizens of the United States from molestation or injury, and that immediate and prompt redress should be afforded on any representation of injury sustained by them. It then proposes to postpone the arti-



cle relative to impressment on account of the difficulties which were experienced in arranging any article on that subject, and to proceed to conclude a treaty on the other points that were embraced by the negotiation. As a motive to such postponement, and the condition of it, it assures us that the British commissioners were instructed still to entertain the discussion of any plan which could be devised to secure the interests of both states without injury to the rights of either.

By this paper it is evident that the rights of the United States were expressly to be reserved, and not abandoned, as has been most erroneously supposed; that the negotiation on the subject of impressment was to be postponed for a limited time, and for a special object only, and to be revived as soon as that object was accomplished; and, in the interim, that the practice of impressment was to correspond essentially with the views and interests of the United States. It is, indeed, evident, from a correct view of the contents of that paper, that Great Britain refused to *disclaim* or *derogate* only from what she called her right, as it also is, that as her refusal was made applicable to a crisis of extraordinary peril, it authorized the reasonable expectation, if not the just claim, that even in that the accommodation desired would be hereafter yielded.

In our letter to you of November 11, which accompanied the paper under consideration, and in that of January 3, which was forwarded with the treaty, these sentiments were fully confirmed. In that of November 11, we communicated one important fact, which left no doubt of the sense in which it was intended by the British commissioners, that that paper should be construed by us. In calling your attention to the passage which treats of impressment, in reference to the practice which should be observed in future, we remarked that the terms "high seas" were not mentioned in it, and added that we knew that the omission had been intentional. It was impossible that those terms could have been omitted intentionally *with our knowledge*, for any purpose other than to admit a construction that it was intended that impressments should be confined to the land. I do not mean to imply that it was understood between the British commissioners and us, that Great Britain should abandon the practice of impressment on the high seas altogether. I mean, however, distinctly

to state that it was understood that the practice heretofore pursued by her should be abandoned, and that no impressment should be made on the high seas under the obligation of that paper, except in cases of an extraordinary nature, to which no general prohibition against it could be construed fairly to extend. The cases to which I allude were described in our letter of November 11. They suppose, a British ship of war and a merchant vessel of the United States, laying in the Tagus or some other port, the desertion of some of the sailors from the ship of war to the merchant vessel, and the sailing of the latter with such deserters on board, they being British subjects. It was admitted that no general prohibition against impressment could be construed to sanction such cases of injustice and fraud; and to such cases it was understood that the practice should in future be confined.

It is a just claim on our part, that the explanations which were given of that paper by the British commissioners when they presented it to us, and afterwards while the negotiation was depending, which we communicated to you in due order of time, should be taken into view, in a fair estimate of our conduct in that transaction. As the arrangement which they proposed, was of an informal nature resting on an understanding between the parties in a certain degree confidential, it could not otherwise than happen that such explanations would be given us in the course of the business, of the views of their government in regard to it. And if an arrangement by informal understanding is admissible in any case between nations, it was our duty to receive those explanations, to give them the weight to which they were justly entitled, and to communicate them to you, with our impression of the extent of the obligation, which they imposed. It is in that mode only that what is called an informal understanding between nations can be entered into. It presumes a want of precision in the written documents connected with it, which is supplied by mutual explanations and confidence. Reduce the transaction to form and it becomes a treaty. That an informal understanding was an admissible mode of arranging this interest with Great Britain is made sufficiently evident by your letter of February 3d, 1807, in reply to ours of November 11, of the preceding year.

Without relying, however, on the explanations that were given by the British commissioners of the import of that paper, or of the course which their government intended to pursue under it, it is fair to remark on the paper itself, that as by it the rights of the parties were reserved, and the negotiation might be continued on this particular topick, after a treaty should be formed on the others, Great Britain was bound not to trespass on those rights while that negotiation was depending ; and in case she did trespass on them, in any the slightest degree, the United States would be justified in breaking off the negotiation, and appealing to force in vindication of their rights. The mere circumstance of entertaining an amicable negotiation by one party for the adjustment of a controversy, where no right had been acknowledged in it by the other, gives to the latter a just claim to such a forbearance on the part of the former. But the entertainment of a negotiation for the express purpose of securing interests sanctioned by acknowledged rights, makes such claim irresistible. We were, therefore, decidedly of opinion, that the paper of the British commissioners placed the interest of impressment on ground which it was both safe and honourable for the United States to admit: that in short it gave their government the command of the subject for every necessary and useful purpose. Attached to the treaty it was the basis or condition, on which the treaty rested. Strong in its character in their favour on the great question of right, and admitting a favourable construction on others, it placed them on more elevated ground in those respects than they had held before ; and by keeping the negotiation open to obtain a more complete adjustment, the administration was armed with the most effectual means of securing it. By this arrangement the government possessed a power to coerce without being compelled to assume the character belonging to coercion, and it was able to give effect to that power without violating the relations of amity between the countries. The right to break off the negotiation and appeal to force, could never be lost sight of in any discussion on the subject ; while there was no obligation to make that appeal till necessity compelled it. If Great Britain conformed her practice to the rule prescribed by the paper of November 8. and the explanations which accompanied it, our government might rest on that

ground with advantage ; but if she departed from that rule, and a favourable opportunity offered for the accomplishment of a more complete and satisfactory arrangement, by a decisive effort, it would be at liberty to seize such opportunity for the advantage of the country.

These considerations, founded on a view of the proposed arrangement itself, furnished strong inducement to us to proceed to the other objects of the negotiation. There were other considerations of a different character, which recommended it with still greater force. Had we refused to proceed in the negotiation, what was the alternative which such a refusal presented to our view ? The negotiation would have been at an end, after having failed in all its objects ; for if this interest was not arranged, none others could be. The attitude which the governments held towards each other, was in a certain degree hostile. Injuries had been inflicted by one party, and resentment shown by the other, the latter having taken a step in the case of the non-importation law, which was intended to vindicate the publick rights and honour by being made the means of obtaining a redress of those injuries. The measure was intended for the ministry of Mr. Pitt, from which the injuries were received ; but by the removal of that ministry, and the delay which took place in the passage of the law, it came into operation against the ministry of Mr. Fox and lord Grenville, who would not have rendered those injuries, and against whom of course such a weapon would not have been raised. Notwithstanding the existence of that law, and the attitude which still remained between the governments, it was impossible to appeal to it as a strong motive of action with the new ministry. Such an appeal was sure to produce more harm than good. It would have lost us all claim on the generous feelings and liberal policy which the new ministry was believed to indulge and disposed to adopt towards the United States. The negotiation, therefore, with the new ministry, was conducted by policy, as well as by inclination, on friendly and conciliatory principles. Should it fail, however, in its object, and be broken off, the relation between the parties would change in an instant. From that moment the new ministry would stand on the ground of the old one, and the nation be united in all its political parties against us. The

attitude would become in fact, what the exterior announced it to be, hostile, and it was difficult to perceive how it could be changed, and peace be preserved, with honour to the United States. They could not recede from the ground which they had taken, or accept, by compulsion, terms which they had rejected in an amicable negotiation. War, therefore, seemed to be the inevitable consequence of such a state of things, and I was far from considering it an alternative which ought to be preferred to the arrangement which was offered to us. When I took into view the prosperous and happy condition of the United States, compared with that of other nations; that, as a neutral power, they were almost the exclusive carriers of the productions of the whole world; and that in commerce they flourished beyond example, notwithstanding the losses which they occasionally suffered, I was strong in the opinion that those blessings ought not to be hazarded in such a question. Many other considerations tended to confirm me in that sentiment. I knew that the United States were not prepared for war; that their coast was unfortified, and their cities in a great measure defenceless; that their militia, in many of the States, was neither armed nor trained; and that their whole revenue was derived from commerce. I could not presume that there was just cause to doubt which of the alternatives ought to be preferred. Had it, however, been practicable to terminate the negotiation, without such an adjustment as that proposed, and without taking any decisive measure in consequence of its failure, what was to become of the non-importation law? If suffered to remain in force, it was sure to produce war. Great Britain, it was known, would enter into no arrangement, by treaty, which did not provide for its repeal; and there was little reason to presume, after the rupture of the negotiation, by which the relation between the parties would be less friendly, that she would become more accommodating. It was, on the contrary, fairly to be concluded, that if any arrangement whatever should be practicable, it would be a less advantageous one than that which we had sanctioned. Some disposition of it was therefore indispensably necessary, in any course which might be taken. These considerations had much weight in deciding that which was pursued, and I frankly own, that a sincere desire to afford



to the administration an honourable opportunity for its repeal, since, under existing circumstances, it did not seem probable that it could be longer useful, and might be injurious, was a strong motive with me to incur the responsibility which I took on myself in that transaction. To the arrangement proposed we gave our sanction. We undertook to submit it to the consideration of our government, taking care to inform the British commissioners that we had no power to conclude a treaty that would be obligatory on the United States, which did not arrange in a satisfactory manner the interest of impressment. We agreed also to proceed in a discussion of the other objects of the negotiation, and eventually concluded a treaty; it being understood, from what we had frequently stated, that if our government should disapprove the arrangement relative to impressment, the whole would fall with it. Thus the United States enjoyed the advantage of being at liberty to accept or reject the arrangement, while on the British government it was binding. With one party it was a project, with the other a treaty. There was in truth nothing unreasonable in this circumstance, as the British commissioners acted in presence of the cabinet, consulted and took its instruction on every point, while our distance from our government rendered such a recurrence to it impossible. This advantage, however, proceeded from the nature of the transaction: it was not the effect of finesse on our part. We advanced in the negotiation, and concluded a treaty in a firm belief, that although it fell short of what we had expected to obtain, it was, nevertheless, in the then state of affairs, such a one as the United States might adopt with credit and advantage. I have no doubt that the British commissioners entertained still greater confidence in such a result. The circumstance of our finally agreeing to sanction the arrangement rather than break off the negotiation, at which issue we had frequently stood, in the progress of it, was calculated to make that impression. But it was much strengthened by a knowledge, that the whole arrangement would expose them to very severe and probably successful attacks from the opposition, while they had no expectation that it would be popular in the country.

By your letter of Feb. 3d, 1807, in reply to ours of Nov. 11th, 1806. the course which the government resolved to



pursue was announced. By it we were informed, that the President disapproved the informal arrangement proposed by the British commissioners relative to impressment, and was resolved to enter into no treaty with the British government, which when limited to, or short of strict right on every other point, should include in it no article on that particular one; that in case such an article could not be obtained, we should terminate the negotiation without any formal compact whatever, but with a mutual understanding, founded on friendly and liberal discussions and explanations, that in practice each party would entirely conform to what should be thus informally settled between them. And we were authorized to give assurances, in case such an arrangement should be satisfactory in substance, that as long as it should be respected in practice, particularly on the subjects of neutral trade and impressment, the President would earnestly, and probably successfully, recommend it to Congress not to permit the non-importation law to go into operation; and in the mean time, that he would exercise the power vested in him by an act of Congress, if no intervening intelligence forbade it, of suspending its operation till the meeting of Congress, who, being in session, would have an opportunity to make due provision for the case; and finally, that if a treaty, which did not provide for the interest of impressment, should have been concluded before the receipt of that letter, we should candidly apprise the British commissioners of the reasons why it would not be ratified, and invite them to enter again on the business with a view to such a result as was desired.

By this letter the arrangement which we had sanctioned, comprising the informal one relative to impressment, and that by treaty on the other topics, was rejected, and in lieu of it we were instructed to enter into an informal understanding or arrangement of the whole subject, and as was to be inferred from the fair import of the letter, on the same conditions. It was the more to be presumed that the government was willing to accept, in the mode which it proposed, the conditions which we might be able to obtain in the other, from the consideration, that the latter were under its view at the time the instructions were given, by the paper of the British commissioners of November 21<sup>st</sup>, and our letter of the 11<sup>th</sup>, and the certainty with

which it, as well as we, must have been impressed, that more favourable could not be expected.

In defending myself against the imputation of having sacrificed the rights of our seamen, I shall be permitted to derive support from the conduct of the government itself in the same interest. Under that impression, I have to remark, that I consider the conduct of the government as furnishing the most ample vindication of that of the American commissioners. The government was equally willing to enter into some arrangement, which should preserve the peace of the country, although it should not accomplish the object which had been so ardently desired. The only difference between the plan which we sanctioned and that which it proposed, was that the whole arrangement should be informal. Had the administration resorted to war as a preferable alternative, or been willing to leave the business unsettled, its policy and example might have been plead against us; but in offering to accept the same conditions in an informal mode, and to withdraw, in some form, the non-importation law as a motive to it, it showed that the considerations which had been respected by us had as much weight with it.

But the conduct of the administration furnishes other strong arguments in favour of the arrangement proposed by the American commissioners. By engaging to observe the informal arrangement which we were instructed to enter into, as long as Great Britain should observe it, it seemed as if the United States would be deprived of the right of insisting on other terms, however favourable the opportunity for it might be, while Great Britain would be at liberty to depart from such arrangement whenever the events of war furnished her an adequate motive for it. This was the opposite of our arrangement as I have stated above, by which, as we presumed, she would be bound, and we free. Certainty to our merchants was all important. Any fair well defined rule, within which they might prosecute in safety their enterprises, although it might fall short in some respects of our just claims, might perhaps be preferable to frequent collisions which put every thing at hazard. In any event it was an object of great importance to keep the peace of the country in our own hands, by retaining the right to resort to war when it suited us, and then only.

I will now proceed to the other topics, which are adverted to in your letter of May 20, 1807, and on which I shall be as concise as possible. In your examination of the treaty you notice several of primary importance, which you conceive to have been improperly arranged in the articles which refer to them. I will pursue in my remarks the order which you have traced.

You consider the 11th article as objectionable in having shut to our commerce important channels which were left open to it, by the decisions of the British courts, and the principles contained in the communication from lord Hawkesbury to Mr. King. In support of that opinion you observe that as the article stipulates, that the United States may carry the manufactures and productions of Europe, from their own ports, to any colony of the enemies of Great Britain, they are prohibited by it from carrying the manufactures or productions of the countries beyond the cape of Good Hope, in like manner, to such colonies. You observe also that as the United States are authorized to carry from their own ports the productions of enemy colonies to Europe, they are prohibited from carrying those productions to the southern coast of the Mediterranean, or beyond the cape of Good Hope, or to any other enemy or neutral colonies in this quarter.

I am persuaded that you will be satisfied, on further consideration, that this construction of that article is unfounded. It is not the object of the article to regulate the general commerce of the countries, or to compromise their claims in any case to which the regulation does not explicitly extend. The regulation prescribed by it applies to a case of controversy between the parties, in a point of immediate contact, and it was the object of the article to adjust the controversy in that point. If we advert to the issue which was made up between them, as clearly defined by the orders of the British government, the decisions of the courts of admiralty under them, and the discussions which took place between the governments on the subject, we shall find that in no view can the construction which you impute to the article, be supported.

The issue lately made up between the parties involved solely the question, what circumstances, or acts, to be performed in the neutral country, were necessary to break the continuity of a voyage from the colony of an enemy

to its parent country, or some enemy country in Europe? This point had been settled, as was presumed, by former decisions of the British courts of admiralty, and explanations of the British government, in a manner which was so far satisfactory to the United States as to justify a belief, that if those decisions and explanations had been adhered to, the existing controversy on this subject would not have arisen. But in 1805 the British courts of admiralty insisted on the performance of new acts in the United States, or what amounted to the same thing, extended by construction the doctrine of former decisions in such a manner as to make the performance of new acts, such too as were of a nature highly onerous and oppressive, indispensably necessary. On this special point the parties were at issue, and the sole object of the article was to adjust, by temporary arrangement, the controversy on that point. The rights of the parties, in every other instance, not within the scope of the adjustment, were to remain, of course, untouched; and, in that particular one, to revive at the expiration of the term limited for the duration of the article.

A concise analysis of the several orders of the British government relative to the trade of neutral powers with enemy colonies, will place, in a clear point of view, the ground of the controversy between the parties, and the precise object and effect of the regulation proposed by the article under consideration. The first order bears date on the 6th Nov. 1793. It directed the British cruisers to bring in for lawful adjudication all vessels laden with goods, the produce of any colony of France, or carrying provisions or supplies for such colony. That order amounted, in express terms, to a declaration of war against the neutral powers, and it was issued in that spirit by the British government. The policy, however, which dictated the order, did not last long. Events soon produced a change of policy, and with it a revocation, or, to use the technical phraseology of the admiralty, a relaxation of the order. The second order was of the 8th January, 1794. It directed the cruisers "to bring in all vessels laden with goods, the produce of the French West India islands, and coming directly from any port of the said islands to any port in Europe." This order being directory, prescribed the case in which neutral vessels engaged

in such a trade should be seized, and thereby confined the seizure to that case only. No vessel engaged in that trade which did not come within the scope of the order, could be touched. Thus the effect of the order was to inhibit the direct trade of the United States, between enemy colonies and Europe, in the productions of those colonies. It left the trade free between the United States and enemy colonies, and between the United States and Europe, and of course every other country. It left it free also in the direct line between enemy colonies and Africa and Asia. By confining the restriction to Europe, those countries were necessarily exempted from its operation. The third order, of the 25th January, 1798, directed the cruisers to "bring in all vessels laden with cargoes, the produce of any island of France, Spain, or Holland, and coming directly from any port of the said islands or settlements to any port in Europe, not being a port of Great Britain, nor of the country to which such ships being neutral belonged." The sole effect of this order was to extend to the neutral powers of Europe, the accommodation which had been yielded to the United States by that of 8th January, 1794. The next order bears date on the 24th June, 1803. It directs the cruisers not to seize any vessel which shall be carrying on trade directly between the colonies of enemies and the neutral country to which the vessel belongs and laden with the property of inhabitants of such neutral country; provided such vessel shall not be supplying, nor have supplied the enemy on the outward voyage with any articles of contraband of war, &c. The sole object of this order appears to have been to introduce a new rule relative to contraband, by subjecting a vessel to seizure on that account, on her return voyage, after depositing her cargo at her place of destination. It prohibits the seizure of neutral vessels, European as well as American, engaged in a trade between enemy colonies and the neutral countries, by positive inhibition. That trade had been left free before, by the restriction of the seizure to vessels engaged in the direct trade between enemy colonies and the parent country. It was now secured by positive inhibition. The right to carry on the trade from the neutral country to other countries, was left on the ground on which it stood before. That this order was not intended to affect that trade, and



did not affect it, is made sufficiently evident by many decisions of the courts of admiralty, which have been given since the order was issued. In proof of this, I refer to all the cases that were decided by the British courts of admiralty, touching the trade of neutrals with enemy colonies in the years 1805 and 1806, and more especially to that of the *William Trefrey*, it being the last one, and containing a summary of the whole doctrine.

If we recur to the decisions of the courts themselves, we shall find a full confirmation of what is here advanced. We shall find that in conforming their decisions to the spirit of the orders of the government, they inhibit the direct trade only between the colony and the parent country, or some other country of Europe; that they do not call in question the trade between neutral powers in the productions of enemy colonies, after those productions were allowed to have been incorporated into the stock of the country; that they gave recent and high offence only by the new doctrines advanced, on this latter point, which, by assuming to investigate the motives of the parties engaged in the trade, and to reject acts which were before deemed satisfactory by decisions the most solemn, and to impose new conditions the most onerous and oppressive, laid that commerce completely at the mercy of British tribunals. The most material cases are those of the *Immanuel*, which involved the question of a trade between Bordeaux and St. Domingo, that is, the direct trade between the parent country and its colony, in which the goods were condemned on that account. *Robin. Rep.* 2d vol. page 186. And of the *Polly, Lasky*, in which the vessel was taken on a voyage from Marblehead to Spain, charged with the productions of the Havana, brought to Marblehead by the same vessel. In this case the question of continuity of voyage was involved, and the court decided in favour of the American claim, on ground that gave no offence. It was admitted in explicit terms by the judge, that an American had a right to import the produce of the Spanish colonies into his own country, and to carry them on thence to the general commerce of Europe, and that the landing of the cargo and payment of the duties would be sufficient criteria of a bona fide importation. *2d Rob. Rep.* page 361. The next cases were those of the *Essex*, *Orne*, of the *Rowhena*, and some others of the same kind, in 1805.



which turned on the point of continuity of voyage, in which the court, pushing its doctrine to the unjust and pernicious extent complained of, produced the controversy which took place between the countries.

The communication between Mr. King and lord Hawkesbury is of the same character. The advocate general admits in his report, which was adopted by lord Hawkesbury, and communicated by him to Mr. King, that by the relaxation of the general principle respecting the trade with enemy colonies, it was distinctly understood, and had been repeatedly so decided by the court of appeal, that the produce of enemy colonies might be imported into the neutral country, and re-exported thence *even to the mother country* of such colony; and in like manner that the produce and manufactures of the mother country might be carried to its colonies. He states that the direct trade between the mother country and its colonies had not been recognised as legal; that what amounted to an intermediate importation into the neutral country, might sometimes be a question of difficulty; that the mere touching in the neutral country to take fresh clearances, might perhaps be deemed evasive, and in effect the direct trade; but that the high court of admiralty had expressly decided (and he saw no reason to expect that the court of appeal would vary the rules) that landing the goods and paying the duties in the neutral country would break the continuity of the voyage, and was such an importation as would legalize the trade, although the goods were reshipped in the same vessel, on account of the same proprietors, and were forwarded for sale to the mother country of the colony.

This communication corresponds in every the minutest circumstance with the spirit of the orders and decisions of the courts as above explained. It insists, and in terms that are far from being positive, that the direct trade only *between the mother country and the colony*, was inhibited. It admits that the trade through the neutral country to the mother country of the colony was lawful, and fixes, with great precision, the acts to be performed in the neutral country, which would be sufficient to incorporate the goods into the stock of the country, and break the continuity of the voyage. In the latter part of the report alluded to, the advocate general seems to make a kind of reservation of the right of the court of appeal, to revise the

decisions of the high court of admiralty, which he represents to have settled the doctrine. But he makes that reservation, if indeed it was intended as one, in such terms as to preclude the idea that it would ever be taken advantage of, especially when it is considered, that the report was adopted by the government, and communicated officially, by the Secretary of State, to a foreign minister. It is certain, however, that through the court of appeal, the new encroachment on the rights of the United States was made, which produced the controversy which ensued immediately afterwards.

The discussion which took place between lord Mulgrave and myself in 1805, on the subject of the seizures then made, treated the encroachment in that line as the special cause of complaint on the part of the United States. Although the British pretension to inhibit even the direct trade, had not been countenanced by the government, yet the commerce of the United States had been made in a certain degree to accommodate with it by the merchants. They were content to decline the direct trade, and to prosecute their enterprises through the United States, equally with the mother country and its colonies. It was natural, in the course of a controversy which involved such important interests, that the rights of the parties should be taken up on principle, and carried to the greatest extent. To the light thrown on the subject by a very able essay, which I received from you, I was much indebted, and I acknowledge in this communication, the aid which it afforded me, with peculiar satisfaction. A vindication, however, of the cause on principle, however extensive the range might be, could not affect the origin of the controversy, nor give to the article entered into for its adjustment a construction different from that which, by well established rules, is fairly applicable to it.

From this view of the several orders of the British government, and from the exposition given of them by the courts, and by the government itself, it appears that the sole object of those that were issued after that of the 6th November, 1793, was to inhibit the direct trade of the United States between enemy colonies and Europe; that they did not touch, and were not intended to interfere with the trade between the United States and Europe, even the parent country, and a fortiori between the United States

and Asia and Africa. It was, indeed, the object of the order of November 6th, 1793, to suppress the commerce of neutral powers with enemy colonies altogether ; but that being abandoned, the next idea which occurred was to embarrass that trade by forcing it through neutral countries. Here, then, arose a new question, which turned entirely on another principle. That a neutral power had a right to carry on trade from its own ports, in any articles, though of foreign produce, which had been incorporated into the stock of the country not contraband of war, and to all countries, was not controverted. That point, otherwise clear and indisputable in itself, had been long settled in the highest tribunals, and by the most eminent jurists in England. The circumstances which constituted such an incorporation of foreign articles into the stock of the country, had also been settled by the same authorities. Still the question which now arose, turned on this latter point. In forcing this commerce through neutral ports with a view to embarrass it, it became necessary [to give the greatest effect to that expedient] to increase the difficulties in those ports, which was done in the manner already stated.

If the instructions of the British government did not inhibit the trade in question, the adjustment contained in the article under consideration could not affect it. That article supposes a *difference* between the parties relative to a trade with enemy colonies, and *the instructions* which interfere with it. The article could not operate in any trade to which the instructions did not extend, and concerning which there was no controversy. In the present case the conclusion is the more irresistible, because there did not exist even a possibility of controversy in regard to that trade.

But it is inferred, that because it is stipulated, that the produce of enemy colonies may be carried to Europe from the United States, that the ports of Asia and Africa are shut on them ; and that because it is stipulated that the manufactures of Europe may be carried from the United States to the West Indies, that those of Asia and Africa are prohibited from being carried there. This objection has been already obviated. Had the instructions of the British government inhibited that trade, and a controversy between the governments arisen from the inhibition, as

the article does not extend to the case, the most that could have been inferred, would have been, that it was unprovided for, and that the rights of the parties would remain in the same state respecting it, as if the article had not been entered into. It is easy to explain the cause why the term "Europe" was introduced into the article, in reference to the ports to which colony produce might be carried, and "European" in reference to the manufactures which might be carried to enemy colonies, and to show that they were adopted with a view to open on the widest scale the ports which had been at any time shut on them by the British orders. Although the policy of these orders, as well as of the principle on which they are founded, is more particularly applicable to the direct trade between enemy colonies and their mother country, yet as the term "Europe" had been adopted in the modifications that were made in them, first at the instance of the United States, and afterwards at that of the neutral European powers, as the widest scale within which the inhibition operated, it was thought best to use that term to prevent the possibility of mistake, as to the extent of the adjustment. Had terms of more extensive import been adopted, they could not have been more effectual to the object, while they might have tended to enlarge the sphere of British pretension, by extending it to cases to which it would be highly improper to give a sanction.

But it is supposed that although the orders of the British government may not have inhibited this trade, it is comprised in the general inhibition of the British principle. If the British principle inhibits such a trade, which I do not admit, it does not follow that a sanction to that inhibition is given by this article, for reasons already stated. If the provision of the article does not extend to that trade, the rights of the parties cannot be affected by it. They remain equally in force against the principle, as against the instructions, had they inhibited it. But the claim to an exemption from that trade from the operation of the British principle, rests on still stronger ground, admitting that it ever extended to it, which however I am far from admitting. It can be shown that the orders themselves, take it completely from within the scope of that principle. By instructing the cruisers to seize vessels engaged in a particular trade, every other trade is allowed.

It is in that mode, that what is called a relaxation of the British principle, is effected. The order reduces the principle to its own standard, or, in other words, becomes the principle itself. If this doctrine is not true, it is impossible to designate in what mode the relaxation, which is universally admitted, of the British principle, is wrought; or to prove that there has been any relaxation of it whatever. If the orders have not that effect, of what avail are they? That they have that effect is proved by the decisions of the courts, and the practice under them. I am aware of the broad doctrine held by the courts on this subject, but that doctrine, necessarily ambiguous from the dilemma in which the courts were placed by the inconsistent orders of the government, if not reconcileable to this construction (as I think it is, when the whole subject is taken into view) is contradicted by the decisions of the same courts and the explanations of the government itself.

I say that this trade is not inhibited by the British principle, because it supposes a trade between enemy colonies and the mother country. But a trade between the United States and Asia or Africa, let the subject of it be what it may, is not a trade of that kind. It is a trade with independent powers at peace with Great Britain, with whom we have a right to trade, by all the rules which Great Britain has at any time insisted on. It would be of dangerous tendency to admit that Great Britain had a pretension to interfere with such a trade in any case. After the goods are received into the United States, no matter of what articles they consist, or from what quarter they came, they are the property of the country, and may of right be shipped to any other country. The British principle does not controvert this doctrine. It asserts in its widest range the right only to seize them on their route to the neutral country, and from it to the mother country of the colony, or some other enemy country of Europe, provided they be not incorporated into the stock of the neutral country. If they are, they may go under the arrangement made to the countries to which the British principle applies. But they require no sanction from the British government, to go to those to which it does not apply. The destination of the vessel alone would, as I presume, dispel every doubt of the legality of the trade, and preclude all farther inquiry concerning it. The question of continuity of voyage



could never arise in such a case. It is certain that the arrangement alluded to gives no sanction to it, and for the best of all reasons, that the trade was not admitted, or even contended to be comprised within the range of British principle.

I shall close my remarks on this point by observing, that as the arrangement of the acts to break the continuity of the voyage from the United States to the parent country, and other enemy countries of Europe, in the produce of their colonies, and from the United States to those colonies, in the manufactures of Europe, is confined strictly to that object, the rights of the parties remain unimpaired in every other circumstance relative to that trade: that as the article contains no stipulation against the direct trade from the colony to the parent country, the right to carry on even that trade is not necessarily suspended by it: that if in any view it can be considered as suspended, it is by implication arising out of the whole transaction, rather than from the stipulation itself. How much stronger then is the conclusion already drawn from other premises, that nothing is to be deduced from that article to justify the construction which has been imputed to it.

The remarks above made, refer more particularly to a trade between the United States and Europe in the produce of enemy colonies. They are however equally applicable to the other objection stated in your letter, of a trade between the United States and enemy colonies, in the produce or manufactures of Africa or Asia. None of the orders alluded to, inhibit that commerce, and it is most certain that the article alluded to, gives no sanction to such a pretension.

As to the conditions by which it is agreed to break the continuity of the voyage, I have to observe that they are as favourable as you had expected. We were authorized to stipulate, if better conditions could not be obtained, that the goods should be *landed*, the *duties paid*, and the *ship changed*. We stipulated, only that the goods should be landed, and the duty paid, making the duty on European goods one per cent. and on colony productions two. By exempting the party from the necessity of changing the ship, an important advantage was certainly secured. By fixing the duty at one per cent. in the one instance, and at



two in the other, it was not possible that the slightest embarrassment should be thrown in the way of the trade. The duty payable on manufactures consumed in the country is about fifteen per cent. and on the West India productions twenty-five. The trifling amount made payable to the country on the re-exportation of the articles, could not be felt by the merchant. It would fall on the European consumer. It could not be felt as a heavy imposition on the trade itself. Our only competitor in it, would be Great Britain, whose merchants would labour under the disadvantages incident to war, in a thousand shapes, more especially as the ports of the whole continent would be shut on them, in not being able to get their goods into those ports, otherwise than by smuggling them: a mode which could not fail to be onerous, if it succeeded, but which was likely to fail in most cases. It should be remembered also, that the increased duties which would accrue to the country would tend, in the degree, to interest the whole community in support of a commerce, in which the commercial part was most materially interested. It is the policy of the European powers having colonies in the West Indies, to make the parent country the entrepot of the productions of its colonies. Is not that policy worthy the attention and imitation of the United States, in respect to the trade of the colonies in question? The duty received would make some recompense to the nation for the expenses incurred and sums expended in supporting our right to that trade. Besides, by making the ports of the United States the "entrepots" for such productions, the country in general would derive some advantage from the measure. Every ship engaged in the commerce which entered an American port, would bring something to, and taking something from it. The vast amount of Asiatick, European and West India articles brought to our markets, would cheapen the price of those articles at home, and each ship, while in port, and in the prosecution of her voyage, would require supplies in provision and other articles, which would raise the price of those articles, to the great advantage of the general interest of the country.

The limitation of the article to the term specified, was a condition which we presumed might prove advantageous to the United States, while it could not possibly injure them. It is expressly stipulated that the right of both parties

shall revive at the expiration of the term. Those of the United States, therefore, would then be in force, and to the full extent of their pretensions, in the same manner as if the stipulation had not been entered into. In another war they might insist on conditions which this stipulation did not secure, and, if Great Britain did not yield to their demand, they might resort to any expedient, to compel her, which the wisdom of their councils might dictate. Any encroachment on the part of Great Britain on their rights, as heretofore contended for, might be considered by their government an act of hostility, and treated accordingly. The least favourable conditions that she could offer would be those already settled, which the United States might accept or reject, as they thought best. As a youthful, prosperous, and rising nation, it could not be doubted that in the next war their situation would be more imposing than in the present one. The presumption is, that they would be able then to obtain better conditions than at present.

On the third article I have to observe, in addition to what is stated in our joint letter of January 3, 1807, that nothing would have been more easy than to have omitted any provision on the subject of it, and to have placed that trade on the footing of the most favoured nation. To obtain better terms by treaty was utterly impossible. We were much inclined to omit any provision on the subject, because we were aware that the arrangement made would fall short of the expectation of our government and country, and most probably subject us to censure. We acceded to that arrangement from a conviction that it secured us better terms than we should be likely to enjoy, if left to depend on the pleasure of the British government, stimulated as we knew that was to restrict us in it by the India company, and other interests of the country. It is impossible to conceive too high an idea of the jealousy which is entertained of the United States, in a commercial view, by that government, and of the danger with which it thinks Great Britain is menaced by their extraordinary prosperity and rapid growth. The boldness of the projects, and the activity and ability with which they are prosecuted by our merchants and mariners, excite the admiration of Europe. Great Britain has seen, that, wherever our citizens gained a foot-hold, they never lost

it. Without distrusting her own means, or the hardiness and activity of her people, she finds that our position, remote from Europe, contiguous to the West Indies and the southern continent, and as near to India as herself, give us advantages, against which she cannot cope. The effort which we made and persevered in for several months to gain admission into British India, on more favourable terms, and the disposition which was shown by the British commissioners to yield, excited a sensation, or more properly speaking, an alarm in the board of India directors, and of the commercial people in general, even among those who had no particular interest in the question, which was extremely obvious. Had we made no provision in the treaty to secure our admittance into India, on certain conditions, we had much reason to believe that that commerce would have been fettered to an extreme degree, and in every form.

We were extremely anxious to provide that our citizens might make their shipments from Europe, to take specie from Spain and Portugal, goods from England, &c. and that they might touch at the Cape of Good Hope, at the Isle of Bourbon, at the Mauritius, &c. that they might carry on the coasting trade in India, and be permitted to pass from Calcutta to China. These advantages were insisted on, but the pressure which we made produced reports from the board of directors, at the instance of the government, and from political men conversant in these topics, which fixed the government in its decision not to grant them. I repeat, however, that it would have been easy to have omitted the regulation from the treaty, and placed the trade on the footing of the most favoured nation, as it would have been at any time afterwards, had the state of affairs in other respects permitted it.

By your instructions, a provision in favour of indemnity was not made an indispensable condition of a treaty. We were authorized to conclude one without it. We were, therefore, persuaded that the ground on which that interest was placed, could not fail to be approved. The arrangement which we made, authorized a just claim to expect a dismissal of all the causes that were depending in the courts of admiralty, and even to an indemnity in the cases of condemnation. The documents which we

forwarded to you in our joint letter of \_\_\_\_\_ give a full view of this subject, and to them I beg to refer.

Your fifth objection applies to the 18th and 19th articles of the treaty, and in the first instance to the prohibition it contains, of extending the privileges which are made reciprocal between the parties, to other nations, which is supposed to be a breach of neutrality. Had I conceived that those articles were justly exposed to that imputation, I should certainly not have assented to them. But I saw no foundation for the imputation. With Spain and Holland we have treaties which secure them all the rights to which they are entitled. It is usual, and certainly proper, for a nation in estimating its claims on other powers, to examine its treaties with them, and not to think of setting up a pretension beyond the limit of such treaties. By treaty, neither of those powers have any right in the case in question, nor have we in the ports of either. By treaty, Great Britain had enjoyed those rights in the ports of the United States, as we had in her ports from the year 1794. Spain and Holland knew the conditions of that treaty, which was in force at the commencement of the present war, and some time afterwards, and would have been in force till late in the last year, had a special condition of the 12th article been carried into effect. To renew the treaty in the express terms of the former one, a treaty which deprived no one power of any existing conventional right; which subjected none to conditions to which they had not been always subjected; which allowed to Great Britain, on principles of reciprocity, a privilege which there was no reason to presume that any other power, especially Spain, would consent to reciprocate with the United States, did not seem to be liable to the objection stated to it. The general principle which you advance, of extending those privileges to as small a number of powers as possible, had also some weight in inducing us to accede to the arrangement. France is admitted to an enjoyment of them in the same extent with Great Britain. She, therefore, has no cause of complaint. I do not think that the stipulation forbids any arrangement of the government, relative to the number of ships of war that shall be admitted into the ports of the United States at one time, or any regulation relative to their conduct while within the ports of the United States, provided it be general and equally applicable to both pow-

ers. A stipulation that the ships of war of each nation shall be hospitably received into the ports of the other, does not necessarily imply that there is to be no rule as to the numbers to be admitted into the ports to which they shall be confined, or the order they shall observe while in port. All these topicks have been at all times, as I have reason to believe, the object of regulation by Great Britain, and I have equal reason to believe that her government did not consider itself as having abandoned its right to regulate them by this article.

Your next objection applies to the last paragraph of the 19th, taken in connexion with the 12th article. By your construction of those parts of the treaty, the United States would be bound to claim redress in favour of Great Britain of her enemies, for any acts of hostility which they might commit on her ships of war or merchant vessels, within the additional limit, while she might commit, with impunity, like acts of hostility on the ships of war and merchant vessels of her enemies, in case they did not acknowledge it, and against their ships of war in case they did, although her own ships of war in both cases would be protected within it. I was decidedly of opinion, and still am, that while those articles secure to the United States an unconditional advantage, none whatever is stipulated by them in favour of Great Britain, which must not of necessity be common to her enemies; that her privilege, on the contrary, whatever it may be, must be founded on their consent, follow, and terminate with it.

The 12th article stipulates that Great Britain shall not stop the vessels of the United States within five marine miles of their coast, except for the purpose of examining whether they be American, or those of another power; and that she shall not stop the unarmed vessels of other powers within the same limit, provided they acknowledge it, except to ascertain whether they belong to those who have acknowledged it. The vessels of the powers who do not adopt the regulation are not affected by it. They remain under the ordinary protection of the law of nations, which extends to the distance of cannon shot, or three miles from the coast. Beyond that limit the enemies of Great Britain have a right to search and seize her vessels, without being amenable to the United States; and the same right is reserved to her by this article as if it had not been entered



into. Vessels of war are expressly excluded from the advantage of the regulation.

It is the sole object of the 12th article to secure to the United States an accommodation, by extending their jurisdiction on their coast, in what concerns themselves, from three to five miles. The stipulation is unconditional as to them, but conditional as to other powers, dependent on their acknowledging the same limit. It is made reciprocal, by being extended to the British dominions northward of the United States, a circumstance which merits attention, as it precludes the idea that any other equivalent was expected or intended to be given for it. It would have been extended to the dominions of Great Britain in Europe and elsewhere, had the British commissioners desired it. They declined it, from a fear that it might produce some innovation in the general doctrine of the law of nations on the subject. This is, I think, fairly to be inferred from the instrument itself.

The last paragraph of the 19th article stipulates, that neither of the parties shall permit the ships or goods belonging to the subjects or citizens of the other to be taken within cannon shot of the coast, nor within the jurisdiction described in article 12th, so long as the provisions of the said article shall be in force, by the ships of war of other powers; but in case it should so happen, the party, whose territorial rights shall thus have been violated, shall endeavour to obtain from the offending party, full and ample satisfaction for the vessels so taken, whether the same be vessels of war or merchant vessels.

If any advantage is given to Great Britain by the arrangement proposed by the 12th article, and this clause of the 19th, to the prejudice of her enemies, or of the United States, it must be by this clause. She can certainly claim none under the 12th article. This clause consists of two distinct members of very different import. The first contains a general stipulation, conformable to the law of nations, applicable to all the dominions of both parties, and equally so to their ships of war and merchant vessels. With respect to the latter, however, it is conditional. The second member applies to the arrangement made in the 12th article, and in the sense and spirit of that article. If the 12th article is carried into effect in favour of other powers, which can only be done by their consent, then the



advantage which is secured to them by it, will accrue likewise to Great Britain. What is that advantage? Protection to their merchant vessels within the additional two miles, and nothing else. It is obvious, that the protection which is stipulated in favour of ships of war, is provided for by the first member of the clause, and not by the second. It cannot be by both, for the distance defined by them is different, it being three miles in one, and five in the other. It is equally obvious, that the stipulation contained in the second member of the clause, relative to the 12th article, is intended to operate in the spirit of that article, and to be made dependent on it. By the terms "nor within the jurisdiction described in article 12th, so long as the provisions of the said article shall be in force," the stipulation contemplated is made conditional. In force, in respect to whom? Not the United States, because it was unconditional as to them. It was conditional only with respect to other powers. Other reasons might be given to show that the arrangement under consideration is not liable to the objection made to it, but I presume that those stated will be satisfactory.

The difficulty to obtain the accommodation which was yielded in the 12th article was extreme. We laboured most earnestly to extend it to other powers, without their consenting to reciprocate it in favour of Great Britain; but that could not be accomplished. The British commissioners urged that as Great Britain predominated at sea, and must lose by the concession in any form, it would be unjust for her to make the concession in their favour, unless they would allow her the advantage of it. Finding that it was impossible to extend the additional limit to other powers, on other terms, we thought it advisable to adopt the arrangement in respect to them conditionally, putting it in their power to accept or reject it, as they thought fit. We flattered ourselves that as they could not lose by it, they would not refuse their assent to an arrangement by which they might gain, especially as it would prove advantageous to a friendly power. We deemed it highly important to establish the additional limit in favour of the United States, from the advantage it might afford to their commerce within it, and from the effect which the measure seemed likely to produce on the future conduct of

the British squadrons on our coast, by whom it could not fail to be considered as a severe censure on the past.

It is readily admitted that more suitable terms might have been adopted to accomplish the object in view. But it ought to be recollected, that as the right of jurisdiction imposes of necessity the obligation of protection, without a special exception to it, there was some difficulty in making an arrangement which should secure to the United States the advantage which they desired, and at the same time exempt them from the duty incident to it.

To your sixth objection, little need be added to what is stated on the subject of it, in our letter of January 3d, 1807. As the paper of the British commissioners to which it relates, had no sanction whatever from us, as was fully shown by that letter, the objection cannot be said to apply to any part of our conduct. The paper was produced by the decree of the emperor of France, of the 21st November, 1806, and was intended by the British commissioners, to operate as a reservation of right, in their government, not to ratify the treaty, or not to be precluded, under certain circumstances, in case it did ratify it, from adopting such measures, as it might find necessary, to counteract the restrictions imposed by that decree. The exercise of the right reserved was made dependent on the abandonment of the principle of that decree by the French government, or an assurance from the government of the United States, or such conduct as would be equivalent, that the pretension would not be submitted to by it. We apprized the British commissioners that our government would enter into no engagement whatever, of what it would do, in any case, with another power. Had the treaty been ratified, even without any notice being taken of that paper, it could not have imposed the slightest obligation on the United States, either to perform any act on their part, or to submit to any on the part of Great Britain. I had supposed, however, in the case of ratification, that we should have been instructed to present to the British government, with the instrument of ratification, a counter declaration to that effect. The whole subject was before our government, with our strong and decided objection to the paper. All that we could do was to transmit it to you, with a correct statement of what had occurred in the negotiation respect-

ing it, which we did. To the government it belonged to take the step which the occasion required, not to us.

Having noticed the objections which are especially stated in your letter of May 20, 1807, and given our view of the several parts of the treaty to which they relate, I shall proceed to make explanatory remarks on the other articles, in order to do justice to the conduct of the American commissioners in regard to them.

ART. 5. You admit that this article is an essential improvement of that on the same subject in the treaty of 1794. It certainly improves it in two important interests; 1st, in that of the navigation of the United States, and 2d, in that of duties on American productions carried to the British market. The tonnage on American ships in British ports had been raised to sterling per ton, while that on British ships in the ports of the United States was only 50 cents, or 2s. 3d. per ton; and the duty on the bulky productions of the United States, in American bottoms, had been raised to such a height, under the countervailing regulations which the treaty allowed, as to secure, in time of peace, the entire carriage of those productions to British vessels, if, indeed, it did not materially affect the price of the articles themselves. What made it more unfortunate was, that the United States could not adopt any measure to remedy those evils without committing a direct and palpable violation of the treaty, as they were bound by it not to raise the existing duties higher than they were at the time the treaty was concluded. Those evils would, however, have been completely done away by this article. By it the United States would have had a right to raise the duty on British vessels to any height to which the British government might raise it on theirs, a check which could not fail to prove adequate to the object, while they had also a right to give what preference they thought fit to their own vessels, which might be done by reducing the duty on them below the tonnage which was imposed on those of Great Britain. This arrangement secured to the United States an advantage which Great Britain could not countervail, as the necessity she is under to avail herself of every resource which she can command to raise revenue for indispensable purposes, renders it impossible for her to make a like discrimination in favour of her own vessels. The inhibition of all

discriminating duties, on the productions of the one, and manufactures of the other party, whether they be carried in American or British bottoms, was a stipulation which it was presumed would also prove highly advantageous to the United States. The pernicious tendency of that principle was well known to you, and we were happy to be able to suppress it.

The objections which you urge to other parts of the article, apply to clauses in the treaty of 1794, which it was impossible for us to change. I have, however, to observe that there is nothing in it to prevent the passage of a navigation act, provided it be adopted as a measure of general policy. Most of the nations of Europe, especially France, would be happy, in a general view, to see the United States resort to that expedient to counteract the restrictive system of England; and as it is one which could not essentially affect them, they could find no motive of that kind to inspire a wish to oppose it, nor could the United States, as I supposed, find one to exempt them from it.

We regretted that we could not obtain a stipulation which should compel Great Britain to repeal the laws which impose so high a duty on her manufactures, when exported to the United States. Our letter showed that we did every thing in our power to obtain such a stipulation. I was, however, persuaded, that the want of it would not expose us to all the evils which you seem to apprehend from it, admitting that the British construction of that clause in the former treaty was a sound one, and that nothing is contained in the 23d article of the present one to discountenance it. It is certain that no government will ever tax exports higher than indispensable necessity compels it, because such a tax tends in all cases essentially to check industry, and to destroy the most productive source of national prosperity. The inhibition imposed by the constitution of the United States on the Congress, to tax, in the slightest degree, their exports, affords a strong argument, drawn from the acknowledged wisdom of its framers, against the policy of such a tax, in the abstract; and I am persuaded that the reasons against it are as strong with Great Britain, if not stronger, than with any other nation. Without taking a more comprehensive view of the subject, it is sufficient to observe, that a tax on British exports

must operate as a bounty in favour of American manufactures, which are already in an advanced state, in certain parts of the Union. Great Britain must be sensible of this fact, and aware of the encouragement which the present export duty gives them, and of the consequences attending it. I should presume that there was not much cause to apprehend, that she would tax the export of her manufactures to the United States, to prevent their being sent thence to other countries. The sole effect of such a tax would be to secure to her own vessels the carriage of the articles, if indeed that were attainable. In both cases the manufactures of Great Britain would be the subject of the commerce. The supply of the great, the productive and increasing markets of the United States, must be a primary object of British policy, and Great Britain would doubtless be cautious not to hazard it for one comparatively of much less importance.

ART. 6. As this article was approved, I shall only observe, that I considered the reservation contained in it important, as it enabled the United States to counteract the British policy, in respect to the trade with the West Indies, which is the object of it, by means the most efficacious, whenever they should be resorted to. The trade of Great Britain with the United States is carried on principally by circuitous voyages, in which her vessels pass from the ports of the United States to the West Indies. By suspending the intercourse between the United States and her West Indies, in British vessels, the chain would be broken, and the whole commerce in such vessels be, in a great measure, suspended. The provision in the article obviously looks to such an object, and the time of carrying it into effect, unless the trade should be placed on satisfactory ground, would have depended altogether on the United States.

Having already noticed the subjects which are embraced by the following articles, I shall add but little more, on any of them, to what is said in our joint letter of January 3d, 1807. The 7th was taken literally from the treaty of 1794. The 8th and 9th amended, as you allow, the articles in that treaty on the same subject. The 10th, relative to blockade, taken in connexion with the British paper of December 31, 1806, placed, as I presumed, that interest on ground which would be satisfactory. The pre-



amble cannot affect it unfavourably, as it does not alter the acknowledged law. The only effect which it could have, would be to admonish the courts to be cautious in admitting evidence of notice, on account of the distance of the United States from the blockaded ports. It was supposed to give the United States a claim to a more favourable rule in respect to evidence, than was allowed to powers more contiguous to the theatre of action. The doctrine contained in Mr. Merry's note to you was not contested by the British commissioners. It is, on the contrary, maintained in their note to us of December 31st, 1806, in which it is asserted to be notorious "that the king did not declare any ports to be in a state of blockade without allotting to that object a force sufficient to make the entrance into them manifestly dangerous." I quote the passage in their note to observe that the doctrine is not made conditional on any other part of it, but is laid down as the established law. It justifies the additional remark that the preamble was not intended and cannot be construed to alter the law. It follows that it cannot produce any other effect than that which is above imputed to it.

The 13th article relates to the search of merchant vessels, and differs from the 19th of the treaty of 1794, in the introductory sentence, which enjoins it on the commanders of ships of war and privateers, to observe in the course of the war, which may then exist, as much as possible, the acknowledged rules and principles of the law of nations; and also in the penal sum [which it increases] to be given by the commanders of privateers before they receive their commissions, as a security for their good conduct under them. It was supposed that in this, as in the preceding case, the law remained untouched, and that the stipulation produced no other effect, than to enjoin it on the governments respectively, to be particularly attentive to the conduct of its officers in the respect alluded to.

The 13th article and the paper of the British commissioners of the 31st of December, 1806, obviously look to the Russian convention, as the standard of the acknowledged law respecting the search of merchant vessels and blockade. That instrument was held constantly in view on both sides, in every discussion on those subjects, and indeed on every other to which it extends, and its doctrine admitted, especially in those, to be the established



law. We were extremely desirous, and used our best exertions, to introduce articles to the same effect, into our treaty, but it was utterly impossible to accomplish it. It must however be allowed, that if engagements of the kind alluded to, especially in regard to blockade, for which there was a special document, would not be observed, that it would be useless to stipulate them by treaty.

On the subject of the 17th article, I have already made some remarks under another head. I cannot think that a stipulation to receive the ships of war of each party, hospitably into the ports of the other, restrains them from limiting the number of ships to be admitted at one time, or from designating the ports to which they shall be admitted. A stipulation to admit them settles only, as I presume, the principle, that they shall be admitted, and leaves open to arrangement the other points connected with it. This opinion is supported by a passage in the article itself, as to the ports which secures to vessels which might be driven by stress of weather, &c. into ports not open to them in ordinary cases, an hospitable reception in such ports. Had the right to designate the ports been given up by the general stipulation, there would have been no necessity for that contained in this passage. The remark is equally applicable to the other case, that of the number to be admitted at one time. As that must be an affair of special and strict regulation, an exception which admitted more, by securing rights to them in case they entered, would necessarily defeat the limitation itself.

The stipulation which relates to the good treatment of the officers of each party in the ports of the other, being reciprocal, contains no reflection on one, which is not applicable to the other; and I will venture to affirm that it is equally necessary in regard to Great Britain as to the United States. It is well known in respect to the latter, that the passions which were excited by the revolution, did not long survive the struggle; that the sword was no sooner sheathed, than the calamities of the war were forgotten. The injured are always the first to forgive. It is, however, just to remark that time has essentially effaced, from the people of both nations, the hostile impression which that arduous conflict produced.

The 23d article was thought to contain an useful stipulation by securing to the United States the advantages in

navigation and commerce, which Great Britain might afterwards grant to any other nation. That stipulation was obviously founded on the right of the most favoured nation, and subject of course to the conditions incident to it. It amounts to this, that if Great Britain should concede any accommodation to another power in commerce with her East or West India colonies, or any other part of her dominions, gratuitously, the United States would be entitled to it on the same terms; but if she made such accommodation, in consideration of certain equivalents to be given her in return, that the United States would not be entitled to those advantages without paying the equivalents. The doctrine is the same in its application to the United States. If they could grant any privileges in trade to France or Spain for admission into their West India colonies, Great Britain would be entitled to the same, provided she admitted the United States into her islands also, and not otherwise. I could not perceive therefore how it was possible that the United States should be injured by the stipulation contained in this article; while it was probable that they might derive some advantage from it. It could not restrain them from passing a navigation act to place them on an equal footing with Great Britain, especially if it was made general, or applied only to her and the other nations having such acts. The right to pass such an act was not taken away by any other stipulation in the treaty, and there was nothing in this article that had such a tendency. The terms "shall continue to be on the footing of the most favoured nation, &c." refer to the principles established by the preceding articles, and not to the existing laws or regulations of either party. If the latter was the case, it would follow, that the tonnage duties, the discriminating duties, &c. would remain as they were. The preceding articles were intended, in the points to which they extended, to establish a standard of equality between the parties, to which the regulations of each, whether they exceeded or fell short of it, should be brought. It could not be doubted that the British export duty was of the first description, that it violated the principle of the most favoured nation. The British commissioners admitted the fact, and did not pretend to justify it on that ground. They urged in its favour only, that the same duty was imposed on exports to their own colonies in America, and

that if any change was made in it, to satisfy the claim of the United States on the principle of the right of the most favoured nation, it would be to raise it on the goods exported to other countries, not to reduce it on those sent to the United States. The principle, however, established by this article, being applicable to that duty, it was to be presumed that it might fairly be relied on to obtain a modification of it, either by reducing the duty on exports to the United States, or raising it on those to other nations. There is nothing in this article to restrain the United States from adopting measures to counteract the British policy with respect to the West Indies. If that object had not been secured by a special article, from the possibility of being affected by the others, the principle established by the present one could not have affected it, otherwise than beneficially.

Having replied to your objections to the several articles of the treaty, and the papers connected with it, and given our view of them, I shall proceed to make some remarks on the whole subject to do justice to the conduct of the American commissioners in that transaction.

In every case which involved a question of neutral right, or even of commercial accommodation, Great Britain was resolved to yield no ground which she could avoid, and was evidently prepared to hazard war, rather than yield much. There seemed to be no mode of compelling her to yield, than that of embarking in the war with the opposite belligerent, on which great question it belonged to the national councils to decide. We had pressed the claims of the United States in the negotiation, to the utmost limit that we could go, without provoking that issue. It is most certain that better terms could not have been obtained at the time we signed the treaty than it contains.

The state of the war in Europe suggested likewise the propriety of caution on our part. Russia was then on the side of England, and likely to continue so; and Austria, known to be in the same interest, was holding an equivocal attitude, and ready to take advantage of any favourable event that might occur. Prussia, lately powerful, had been defeated, but was not absolutely subdued; her king, the ally and friend of Alexander, kept the field with him, and made head against France. The emperor of France, far removed from his dominions, was making the bold and

dangerous experiment, of the effect which his absence might produce in the interior, and in a situation to be compelled to risk every thing, if pressed by his adversary, on the precarious issue of a single battle. These were strong reasons why we should not throw ourselves too decisively into that scale.

The situation of the United States, always a respectable one, was then less imposing than it usually was. It was known that they were not on good terms with Spain, and that France was the ally of Spain. Their interior too, was disturbed by a conspiracy of doubtful extent and dangerous tendency, the consequences of which were sure to be greatly magnified by all who were unfriendly to our happy system of government. Those circumstances could not fail to be taken into view, by any the most friendly administration in England, when pressed to make concessions which it was unwilling to make. Add to these considerations, the important one, that the British ministry had become much impaired in its strength, especially in what concerned the United States, by the death of a very eminent and distinguished statesman, and had not the power, or thought that it had not, to pursue a liberal policy towards the United States, and that its power was evidently daily diminishing.

These considerations induced us to sign the treaty, and submit it to the wisdom of our government, after obtaining the best conditions that it was possible to obtain. We were aware that, in several points, it fell short of the just claims of our country. But we were persuaded that such an arrangement was made of the whole subject as justified us in the part which we took. In the rejection or adoption of the treaty, I felt no personal interest. Having discharged my duty with integrity and zeal, I neither wished applause nor dreaded censure. Having the highest confidence in the wisdom, the rectitude and patriotism of the administration, I was satisfied that it would pursue the course, which an enlightened view of the publick interest, and a just sensibility to the national honour, might dictate.

Our letter of January 3d, was written in haste, and was deficient in many of the explanations which would otherwise have been given of the treaty. I was happy when at Washington to find that you were perfectly willing to receive any explanations which I might now be disposed to

give of that transaction, and to allow them the weight which they might deserve. In making this communication I have indulged the freedom which belonged to it, in full confidence that it would be approved.

I cannot conclude this letter without adding my most ardent wish, that the administration may succeed in conducting our affairs with every power, to the happiest result. My retirement, which had been long desired, and delayed only by the arduous and very important duties in which I was engaged, had become necessary as a relief to my mind, after much fatigue, and to the interest of my family, which had been neglected and greatly injured by my absence in the publick service. It is still my desire to cherish retirement. Should it, however, be our unfortunate destiny, which I most earnestly hope will not be the case, to be involved in foreign war or domestick trouble, and should my services be deemed useful, I will not hesitate, at the desire of the administration, to repair again to the standard of my country.

I have the honour to be, with great consideration and esteem, your very obedient servant,

JAMES MONROE.

*Extract of a Letter to Mr. Monroe from General Armstrong.  
Paris, July 7, 1807.*

SIR,—“The accounts you have had of recent captures made by French privateers of American vessels, under cover of the decree of November last, are not correct; at least, if such captures have been made, I know nothing of them. The only captures I have at any time heard of, were those made from Porto Ferrago. They are by no means of recent date, and have all, I believe, been redressed by the council of prizes. Two of these cases, to which I attended personally, received decisions equally favourable and prompt. Interest and damages were given to the plaintiffs, and I know not why decisions, equally favourable, should not have been given in the other cases. I have, within a week, been informed by Mr. Erving, that he had reason to believe that a French privateer, then in a port of Spain, had plundered American ships, either going to or coming from England, of dry goods, to the amount of \$300. Before any thing could be done in Spain



for the recovery of these goods, the ship went to sea, and professedly for the purpose of returning to the port of her armament. Believing her to have arrived there, I put all the evidence I possessed before M. Decres, who closes his answer with the following assurance : \* “ Your excellency may be assured, that as far as it depends on me, the captains of these vessels, or their owners, shall obtain, if there is ground for it, a prompt and full reparation.” I quote this to show you that there is no disposition in the ministers of this government to sanction or protect such enterprises upon our commerce. From the uses you may be able to make of the facts, and their relation to your question generally, I subjoin a brief exposition of the construction now given to the November decree. It was, you know, admitted by both ministerial and judicial authorities, that this decree did not infract the provisions of the treaty of 1800 between the United States and France. Still it was contended that vessels (of the United States) coming from any port of Great Britain *since* the date of the edict, could not be admitted to entry in the ports of France. This rule, without some qualifications, was likely to become mischievous, and I accordingly obtained the following modifications of it, and hope to obtain a further modification, which will render it perfectly harmless. These changes took place as circumstances rose to produce them ; for though the necessity for them was both foreseen and represented, it was only upon real, not upon hypothetical cases, that the ministers of his majesty were willing to act.

1. Vessels leaving ports of the United States before a knowledge of the arret had been promulgated *there*, are not subject to the rule.

2. Vessels not coming *directly* from a British to a French port, are not subject to the rule.

3. The *cargoes* of vessels coming *directly* from a British to a French port, and offered for entry, on proof that the touching of the ship in England, &c. was involuntary, are put in depot or sequestration, until his majesty shall have decided on the sufficiency of the proof offered ; or they

\* V. E. peut etre assuree qu'il ne tiendra pas a moi que les capitaines de ces navires ou leurs proprietaires n'obtiennent s'il y a lieu une reparation prompte et pleine.



are at once given up to the consignees, on their giving security to abide the decision which shall be ultimately taken by the emperor in their respective cases. The *vessels* can go out freely, and without impediment of any kind. The former rule, of which this is an amelioration, was, that *ships*, as well as *cargoes*, coming under this description, should be sequestered, &c. The farther alteration which I have asked is, the establishment of some principle which shall regulate the kind and degree of proof required with respect to the alleged application of a force majeure, &c. My own opinion is, that this may best be found in the greater or less correspondence which shall exist between the cargo when shipped in America, and when arrived here. If the correspondence be complete, the evidence ought to be considered as complete also, *that they were not in Great Britain for the purposes of commerce*, and not being there for *these* purposes, the inference is fair, that their going there at all was involuntary. This is a rule the ministers will consent to : whether his majesty will do so also, will be known in a few days. He is expected here about the beginning of August."

*Paris, le 18 Septembre, 1807.*

J'AI soumis à sa majesté l'empereur et roi, monsieur, les doutes que s'était formés. E. le ministre de la marine et des colonies, sur l'étendue de quelques dispositions du décret impérial du 21 Novembre, 1806, qui a déclaré les isles Britanniques en état de blocus ; voici quelles sont les intentions de sa majesté sur les points qui avaient été mis en question.

1. Les bâtimens armés en guerre peuvent-ils en vertu du décret impérial du 21 Novembre dernier, *saisir sur les bâtimens neutres*, soit les propriétés Anglaises, soit même toutes marchandises provenant de manufactures ou du territoire Anglais ?

Sa majesté m'a fait connaitre, que, puisqu'elle avait jugé à propos de n'exprimer aucune exception dans son décret, il n'y avait pas lieu d'en faire dans l'exécution à l'égard de qui que ce pût être.

2. Sa majesté a sursis à statuer sur la question de savoir si les armemens Français doivent s'emparer des bâtimens neutres qui vont en Angleterre, ou qui en sortent, lors même qu'ils n'ont point à bord de marchandises Anglaises.

3. Sur la troisième question, qui était de savoir si les armemens Français sont possible de la retenue ordonnée par l'article 6, du décret du 21 Novembre, sa majesté a déclaré que la disposition de cet article n'était susceptible d'aucune restriction, c'est-à-dire, que la retenue doit avoir lieu sur le produit de toutes les confiscations de marchandises et propriétés qui ont été ou pourroient être prononcées en exécution du décret, sans égard au lieu de la saisie ou à la qualité des saisisans.

Vous voudrez bien, monsieur, notifier ces décisions au conseil des prises, les faire consigner sur les registres et m'assurer la réception de ma lettre.

Recevez, &c. &c.

Le gd. juge min. de la justice.

REGNIER.

Procureur Général Impérial du Conseil des Prises.

*Paris, September 18, 1807.*

I HAVE submitted, sir, to his majesty the emperor and king, the doubts of his excellency the minister of marine and colonies, on the extent of some of the provisions of the imperial decree of November 21, 1806, which has declared the British islands in a state of blockade. The following are the intentions of his majesty, on the points in question.

1. Can armed vessels under the imperial decree of the 21st of November last, seize in neutral vessels, either English property, or merchandise proceeding from the manufactures of the English territories?

His majesty notifies me, that since he had not thought proper to express any exception in his decree, there is no ground to make any in the execution, with respect to any thing whatsoever.

2. His majesty has not decided the question whether French armed vessels may possess themselves of neutral vessels going to or from England, although they have no English merchandise on board.

3. On the question, whether French armed vessels are subject to the deduction ordered by the sixth article of the decree of November 21, his majesty has declared that the provision of that article was not susceptible of any restriction ; that is to say, that the deduction must take effect on the proceeds of all confiscations of merchandise and property, which have been or may be pronounced in execution of the decree, without regard to the place of seizure or character of the captors.

You will be so good, sir, as to notify these decisions to the council of prizes, to have them entered in the registers, and to acknowledge the receipt of my letter.

Accept, &c. &c.

The Grand Judge Minister of Justice,  
REGNIER.

Procureur General Imperial of  
the Council of Prizes.

*Paris, August 9, 1807.*

SIR,—Your excellency is not unapprized that, soon after the promulgation of the imperial decree of the 21st of November last, one of similar character and injunctions was issued by the prince of peace, in behalf of his catholic majesty. Under this order, sundry vessels belonging to the citizens of the United States have been captured on the high seas, brought into the ports of Spain, and are now before the court of admiralty for examination. To this brief statement, I subjoin an extract from a letter of the 27th ultimo, from the charge des affaires of the United States at Madrid, which will show your excellency, that the fate of these vessels will depend, not on the construction which might be given to the Spanish decree, by the Spanish tribunals, but on the practice which shall have been established by France under her decree of November last ; and that prince Masserano has accordingly been directed to ask from your excellency such exposition of that decree, and of the practice under it, as shall regulate, on this head, the conduct of Spanish courts and cruisers towards neutral commerce in general. Assured as I feel myself, that this exposition, whenever given, will not be less friendly and liberal, than that already found in the

decisions of his imperial majesty's council of prizes and correspondence of his minister of marine, viz. that the provisions of the decree in question do not infract any of the rights of commerce, stipulated by treaty between France and the United States, it is incumbent on me to pray your excellency that it (the exposition required) be given as expeditiously as possible, to the end that the legitimate commerce of the United States be relieved from all farther annoyance, growing out of the doubtful meaning and operation of the Spanish decree aforesaid.

Your excellency will permit me to avail myself of this occasion to recall to your attention the subject of my letter of the 26th of June last. I learn from Antwerp, that the cargoes mentioned in that letter are yet under sequestration, and that considerable loss, as well by diminution of price in the articles, as by accumulation of interest and charges, has been already incurred.

Your excellency will do me the honour to accept the assurances of my profound respect.

JOHN ARMSTRONG.

His Excellency the Prince of Benevento.

*Paris, Sept. 24, 1807.*

SIR,—I have this moment learned that a new and extended construction, highly injurious to the commerce of the United States, was about to be given to the imperial decree of the 21st of November last. It is therefore incumbent upon me to ask from your excellency an explanation of his majesty's views in relation to this subject, and particularly whether it be his majesty's intention, in any degree, to infract the obligations of the treaty now subsisting between the United States and the French empire?

I pray your excellency, &c. &c. &c.

JOHN ARMSTRONG.

His Excellency the Minister of Foreign Relations.

*Fontainebleau, le 7 Oct. 1807.*

MONSIEUR,—Vous m'avez fait l'honneur de m'inviter le 24 Septembre à vous transmettre quelques éclaircis-

mens sur l'exécution du décret de blocus des isles Britanniques envers les bâtimens des Etats Unis.

Les dispositions de tous les réglémens et de tous les traités relatives à l'état de blocus, ont paru applicables à la circonstance actuelle, et il résulte des explications qui viennent de m'être adressées par le procureur général impérial près le conseil des prises, que sa majesté a regardé tout bâtiment neutre, sortant des ports Anglais, avec des cargaisons de marchandises Anglaises, ou d'origine Anglaise, comme pouvant être valablement saisi par les bâtimens de guerre Français.

Le décret de blocus est rendu depuis près de onze mois : les principales puissances d'Europe, loin de réclamer contre ses dispositions, les ont adoptées. Elles ont reconnu qu'il fallait en rendre l'exécution complète pour la rendre plus efficace, et il a paru qu'il était facile d'accorder les mesures avec la conservation des traités ; surtout dans un temps où les infractions de l'Angleterre contre les droits de toutes les puissances maritimes, rendent leurs intérêts communs et tendent à les unir pour le soutien de la même cause.

Recevez, monsieur, &c. &c.

CHAMPAGNY.

S. Ex. le Gen. Armstrong,  
Min. Plen. des Etats Unis.

*Fontainbleau, Oct. 7, 1807.*

SIR,—You did me the honour, on the 24th of September, to request me to send you some explanations as to the execution of the decree of blockade of the British islands, as to vessels of the United States.

The provisions of all the regulations and treaties relative to a state of blockade have appeared applicable to the existing circumstance, and it results from the explanations which have been addressed to me by the imperial procureur general of the council of prizes, that his majesty has considered every neutral vessel, going from English ports, with cargoes of English merchandise, or of English origin, as lawfully seizable by French armed vessels.

The decree of blockade has been now issued eleven months. The principal powers of Europe, far from protesting against its provisions, have adopted them. They have perceived that its execution must be complete, to render it more effectual, and it has seemed easy to reconcile these measures with the observance of treaties, especially at a time when the infractions, by England, of the rights of all maritime powers, render their interests common, and tend to unite them in support of the same cause.

Accept, &c. &c.

CHAMPAGNY.

His Excellency General Armstrong,  
Min. Plen. of the United States.

*Paris, Nov. 1807.*

SIR,—It was not till yesterday that I received from Mr. Skipwith a copy of the decree of the council of prizes, in the case of the *Horizon*. This is the first unfriendly decision of that body under the decree of the 21st of November, 1806. In this case, and on the petition of the defendant, the court has recommended the restoration of the *whole* cargo. I did not, however, think proper to join in asking as a favour, what I believed myself entitled to as a right. I subjoin a copy of my note to the minister of foreign affairs.

And am, sir, &c.

JOHN ARMSTRONG.

Mr. Madison, &c.

*Paris, Nov. 12, 1807.*

SIR,—The document to which these observations are prefixed, will inform your excellency that an American ship, trading under the protection of the laws of nations, and of particular treaties, and suffering shipwreck on the coast of France, has recently been seized by his majesty's officers, and adjudged by his council of prizes, as follows, viz.

“Our council puts at liberty the American vessel, the *Horizon*, shipwrecked the 30th of May last, near Morlaix, and consequently orders, that the amount of the sale legal-



ly made of the wreck of the said vessel, together with the merchandise of the cargo, which, according to an estimate made in presence of the overseers of the administrations of the marine and custom-house, shall be acknowledged not to proceed either from English manufactures or territory, shall be restored to captain Mac Clure, without deducting any other expenses but those relative to the sale."

"And with regard to the other merchandise of the cargo, which, from the result of the said estimate, shall be acknowledged to come from manufactures or from English territory, by virtue of the 5th article of the decree of the 21st of November, 1806, they shall be confiscated for the use of the state. The whole to be sold by the forms prescribed in the regulations, and the application of the product to be made in conformity to the arrangements of the said decree, deduction being made for the expense of saving the goods, and that of the support of the crew, until the day that the captain shall receive the notification of the present decision."

The reasons, upon which this decision is founded, are at once so new and so alarming to the present friendly relation of the two powers, that I cannot but discuss them with a freedom in some degree proportioned to my sense of their novelty and importance.

"Considering," says the council, "that the neutrality of the ship and cargo were sufficiently established, the whole ought to be restored, (agreeably to the provisions of the convention of the 30th September, 1800,) provided no merchandise of English origin had been found in her, and of course, that she had not been brought within the limits of the imperial decree of the 21st of November, 1806."

Here is an open and unqualified admission that the ship was found within the rules prescribed by the convention of 1800; that according to these rules, her cargo and herself ought to have been restored; and that such would have been the fact, but for the operation of the decree of the 21st of November, 1806.

In the letter your excellency did me the honour to write me on the 7th of October last, you thought it "easy to reconcile the obligations of this decree with the preservation of those arising from treaties." It was not for me to examine the means by which this reconciliation was to be ef-

fectcd. They no doubt fully existed, and yet exist, in his majesty's good pleasure ; and taking for granted this fact, I saw in the opinion nothing but proofs of a friendly disposition, and pledges that this was not to be either wantonly destroyed or diminished. How inauspicious, however, to its authority and the consolation derived from it, is this recent act of the council of prizes, an act which explicitly acknowledges the opposite characters and conflicting injunctions of these two instruments, and which of course draws after it considerations the most serious to the government of the United States.

The second reason of the council is " That the decree declaring British merchandise good prize, had principally in view captures made on the high seas, but that the question, whether shipwrecked goods ought to be restored or confiscated, having always been judged under the 14th article of the regulation of the 26th of July, 1778, and according to their character (that might have rendered lawful, or have even commanded their seizure at sea,) there is no room to introduce in this case any new distinction which, however philanthropick it may appear, has not as yet been adopted as a rule by any maritime nation."

The doctrine resisted in this passage, and which inculcates the duty of extending protection to the unfortunate, is not new to his majesty's council of prizes. They have themselves consecrated it by their decision of the 5th of March, 1800. By that decision, they restored an enemy's ship,\* on the *single reason*, that she had been *compelled* to enter a *French port by stress of weather*. " I should equally fail," says the attorney general, " in respect to myself, and to the council, before whom I have the honour to represent the government, were *I not to maintain a principle, consecrated by our laws, and by those of all nations*. In all circumstances, let the loyalty of the French government serve as the basis of your decisions. Prove yourselves at once generous and just ; your enemies will know and respect your magnanimity." Such was the principle adopted by the council in the year 1800, and in the case of an enemy's ship. Yet, we are now told, that this very principle, so honourable to the court, to the

\* The Diana.

nation, and to human nature, is utterly unknown to all maritime people ; and on what occasion do we hear this ? When an enemy's ship is again thrown on the French coast ? No : it has been reserved for the wreck of a neutral and a friendly vessel ! for a ship of the United States. It is not denied, that had this ship escaped the rocks, and made the port of Morlaix, the only inhospitality to which she would have been exposed, (under the most rigorous interpretation of the law in question) would have been that of being ordered again to sea. Has then the misfortune of shipwreck so far altered her condition, as to expose her to the injury of confiscation also ? and is this among the principles which the defender of maritime rights means to consecrate by his power and his wisdom ? It is impossible.

The third reason of the council is, " That the application of the fifth article aforesaid, in as far as it concerns the Americans and other nations, is the result both of the general expressions of that very article, and of the communication recently made by his excellency the grand judge, concerning the primitive intention of the sovereign, that the expedition in question, having certainly been undertaken with full knowledge of the said decree, no objection can be drawn with any propriety from the general rules forbidding a retrospective action, nor even in this particular case, from the posterior date of the act in which the sovereign decides the question, since that act sprung from his supreme wisdom, not as an interpretation of a doubtful point, but as a declaration of an antierior and positive disposition."

A distinction is here attempted to be taken between the interpretation of a doubtful point, and the declaration of an antierior and positive rule. This distinction cannot be maintained ; for if the rule had been positive, there would have been no occasion for the declaration ; neither the minister of marine nor the council of prizes could have had any doubts on the subject ; the execution of the decree would have been prompt and peremptory, nor would a *second* act on the part of his majesty, after the lapse of twelve months, have been necessary to give operation to the *first*. Need I appeal to your excellency's memory for the facts on which these remarks turn ? You know that doubts did exist ; you know that there was

under them even much hesitation in pronouncing; you know that as late as the 9th of August, I sought an explanation of the decree in question, and that even then your excellency (who was surely a competent and legitimate organ of his majesty) did not think yourself prepared to give it. The conclusion is inevitable; his majesty's answer transmitted to the court of Paris, on the 18th of September following, through the medium of the grand judge, was in the nature of an *interpretation*, and being so, could not without possessing a retroactive quality, apply to events many months antierior in date to itself.

The 4th reason of the council, and the last which enters into my present view of the subject, is,—“That though one of the principal agents of his majesty had given a contrary opinion, *of which the council had at no period partaken*, this opinion being that of an *individual*, could not (whatever consideration its author may merit,) balance the formal declaration given in the name of his majesty himself, and that if the communication of this opinion had, as is alleged, given room to and served as a basis for many American shipments, and particularly of the one in question, this circumstance, which may call for the indulgence of his majesty, in a case in which the confiscation is entirely to the advantage of the state, does not prevent a council, rigid in its duty, to pronounce in conformity to the decree of the 21st of November, and of the declaration which followed it.”

It would appear from this paragraph, that, not finding it easy to untie the knot, the council had determined to cut it. Pressed by the fact, that an interpretation of the decree had been given by a *minister of his majesty, specially charged* with its execution, they would now escape from this fact, and from the conclusions to which it evidently leads, by alleging,

1st. *That at no time* had the council partaken of the opinion given by the minister; and

2d. That this opinion, being that of an *individual*, could not possess either the force or the authority of one truly ministerial.

It appears to me, as I think it will to your excellency, that the council have, in these statements, been less correct than is usual to them on similar occasions, if, as they now assert, they have never partaken of the minister's opi-

nion. If they have never even hesitated on the question, whether the decree of November did, or did not derogate from the treaty of 1800. Why, I ask, suspend the American cases generally? Or why decide as they did in the case of the *Hibernia*? If I mistake not we find in this case the recognition of the very principle laid down by the minister of marine; that officer says, "In my opinion the November decree does not work any change in the rules at present observed with respect to neutral commerce, and consequently none in the convention of the 8th Vendemiaire, year 9." And what says the council? "*Admitting* that this part of the cargo (the rum and ginger) was of *British origin*, the dispositions of the November decree, *which contain nothing with regard to their own influence over the convention of the 8th Vendemiaire, year 9*, evidently cannot be applied to a ship leaving America on the 6th of the same month of November, and of course cannot have authorized her capture in the moment she was entering the neutral port of her destination." We have here three distinct grounds of exemption from the effects of the November decree.

1st. The *entire silence* of that decree with regard to its own influence over the convention of 1800.

2d. The *early period* at which the ship left the United States, and

3d. The *neutral character* of the port to which she was destined. If such, sir, were the principles admitted by the council of the 25th March last, with what correctness can it be now said "that at no period have they partaken of the opinion of the minister?"

The second fact asserted by the council is, that the interpretation of the decree in question, given on the 24th of December, 1806, was *private*, not *publick*, or in other words, that it was the interpretation of the *man*, not that of the *minister*, and as such cannot outweigh the more recent declaration coming directly from his majesty himself. On the comparative weight of these declarations I shall say nothing, nor shall I do more to repel the first part of the insinuation (*that the minister's declaration was that only of the individual*) than to submit to your excellency my letter of the 20th of December, 1806, claiming from that minister an *official* interpretation of the decree in ques-



tion, and his answer of the 24th of the same month, giving to me the interpretation demanded.

To your excellency, who, as late as the 21st of August last, considered the minister of marine as the natural organ of his majesty's will, in whatever regarded the decree aforesaid, and who actually applied to him for information relating to it, this allegation of the council of prizes, and the reasoning founded upon it, cannot but appear very extraordinary, and will justify me in requesting that his majesty may be moved to set aside the decision in question.

I beg, &c. &c.

J. ARMSTRONG.

His Excellency the Minister of Foreign Relations.

*Letter from the Minister of Foreign Relations of the 21st of August, 1807, referred to in the preceding letter.*

MONSIEUR,—J'ai reçu la lettre que vous m'avez fait l'honneur de m'adresser le 9 de ce mois relativement à des bâtimens Americains conduits dans les ports d'Espagne par suite des dispositions que cette puissance a prises contre le commerce Anglais, à l'exemple de la France.

Comme l'exécution des mesures maritimes indiquées par le décret impérial du 21 Novembre, 1806, appartient naturellement à son excellence le ministre de la marine et que d'ailleurs il a déjà en l'honneur des vous adresser de premières observations sur l'application de ce décret, je me suis empressé de lui transmettre votre lettre, et de lui demander les nouvelles explications que vous pouvez desirer. Des qu'elles m'auront été adressées, j'aurai l'honneur de vous en donner connaissance.

Agréez, M. l'assurance de ma haute consideration.

CHAMPAGNY.

Son Ex. le Gen. Armstrong.

SIR,—I have received the letter which you did me the honour of addressing me on the 9th of this month, relative to American vessels carried into ports of Spain, in consequence of the measures taken by that power against the English commerce in imitation of France.



As the execution of the maritime measures indicated by the imperial decree of the 21st of November, 1806, rests naturally with his excellency the minister of marine, and that moreover, he has already had the honour of addressing you some first observations on the application of that decree, I transmitted, without delay, your letter, and asked from him the new explanations which you might desire. When they shall have been forwarded me, I will have the honour of informing you of them.

Accept the assurance of my high consideration,

CHAMPAGNY.

His Excellency Gen. Armstrong.

### IMPERIAL DECREE.

REJOINDER TO HIS BRITANNICK MAJESTY'S ORDER IN COUNCIL OF NOV. 11, 1807.

*At our Royal Palace, at Milan, Dec. 17, 1807.*

NAPOLEON, emperor of the French, king of Italy, and protector of the Rhenish confederacy.

Observing the measures adopted by the British government, on the 11th of November last, by which vessels belonging to neutral, friendly, or even powers the allies of England, are made liable, not only to be searched by English cruisers, but to be compulsorily detained in England, and to have a tax laid on them of so much per cent. on the cargo, to be regulated by the British legislature.

Observing that by these acts the British government denationalizes ships of every nation in Europe, that it is not competent for any government to detract from its own independence and rights, all the sovereigns of Europe having in trust the sovereignties and independence of the flag; that if by an unpardonable weakness, and which, in the eyes of posterity, would be an indelible stain, such a tyranny was allowed to be established into principles and consecrated by usage, the English would avail themselves of the tolerance of governments to establish the infamous principles, that the flag of a nation does not cover goods, and to give to their right of blockade an arbitrary extension, and which infringes on the sovereignty of every state; we have decreed, and do decree as follows:

ARTICLE I. Every ship, to whatever nation it may belong, that shall have submitted to be searched by an English ship, or to a voyage to England, or that shall have paid any tax whatsoever to the English government, is thereby, and for that alone, declared to be denationalized, to have forfeited the protection of its king, and to have become English property.

ARTICLE II. Whether the ships thus denationalized by the arbitrary measures of the English government, enter into our ports or those of our allies, or whether they fall into the hands of our ships of war, or of our privateers, they are declared to be good and lawful prizes.

ARTICLE III. The British islands are declared to be in a state of blockade, both by sea and land. Every ship, of whatever nation, or whatsoever the nature of its cargo may be, that sails from the ports of England, or those of the English colonies, and of the countries occupied by English troops, and proceeding to England, or to English colonies, or to countries occupied by English troops, is good and lawful prize, as contrary to the present decree; and may be captured by our ships of war or our privateers, and adjudged to the captor.

ARTICLE IV. These measures, which are resorted to only in just retaliation of the barbarous system adopted by England, which assimilates its legislation to that of Algiers, shall cease to have any effect with respect to all nations who shall have the firmness to compel the English government to respect their flag. They shall continue to be rigorously in force as long as that government does not return to the principle of the law of nations, which regulates the relations of civilized states in a state of war. The provisions of the present decree shall be abrogated and null, in fact, as soon as the English abide again by the principles of the law of nations, which are also the principles of justice and of honour.

All our ministers are charged with the execution of the present decree, which shall be inserted in the bulletin of the laws.

NAPOLEON.

By order of the Emperor.

The Secretary of State.

H. B. MARET.

## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES RELATIVE  
TO ENGLAND AND FRANCE. MARCH 30, 1808.

[Message and Documents recalled, and not to be found in Secretary of State's Office: Two of the papers, however, were afterwards made public. See Message, April 2, 1808, p. 473 of this vol.]

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO THE  
HOUSE OF REPRESENTATIVES. APRIL 1, 1808.

IN answer to the inquiries of the resolution of the House of Representatives of the 30th of March, relative to certain dates, I transmit a report of the Secretary of State made to me on that subject.

TH: JEFFERSON.

THE Secretary of State has the honour to report to the President, in conformity to the resolution of the House of Representatives of the 30th of March, that the only information which has been received respecting the letter from which the extract inserted in general Armstrong's letter to the Secretary of State of January 22, 1808, was taken, is in the extract itself, to which no date is given; and that no copy of any letter from the French ministry to him is subjoined to, or known to be referred to, in his said letter of January 22d, except that, a copy of which was communicated to Congress by the President on the 29th of March,\* and which bears date January 15th, 1808. It does not appear from any information received by the Department of State, at what date, either this letter of January 15th, or the letter from which the inserted extract was taken, were received by the minister of the United States at Paris.

Respectfully submitted.

JAMES MADISON.

Department of State, April 1, 1808.

\* No message of 29th of March is to be found on the Journals of Congress.

## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS.  
APRIL 2, 1808.

BELIEVING that the confidence and union of our fellow citizens, at the present crisis, will be still further confirmed by the publication of the letter of M. Champagny, to general Armstrong, and that of Mr. Erskine, to the Secretary of State, communicated with my message\* of the 30th ult. and therefore, that it may be useful to except them from the confidential character of the other documents accompanying that message, I leave to the consideration of Congress the expediency of making them publick.

TH: JEFFERSON.

*Washington, February 23, 1808.*

SIR,—I have the honour to transmit to you, the copies of certain orders of council, which his majesty has thought proper to issue in consequence of the hostile conduct of France towards the navigation and commerce of Great Britain, and of neutral states.

His majesty has been induced hitherto to forbear recurring to measures of this nature, by the expectation that the governments of the neutral states, who have been the objects of the French decrees, would have been awakened to a just sense of what they owe to their interests and own rights, and would have interposed with effect, either to prevent the execution of the French decrees, or to procure their abrogation.

But his majesty, having been disappointed in this just expectation, and perceiving that the neutral nations, so far from opposing any effectual resistance, have submitted to whatever regulations France may have prescribed for giving effect to her decrees, can no longer refrain from having recourse to such measures, as by retorting on the enemy the inconveniences and evils produced by his injustice and violence, may afford the only remaining chance of putting an end to a system, the perseverance in which

[\* The message of March 30 is not printed in either of the journals. See preceding page.]

is not more injurious to his majesty's dominions, than to nations not parties to the war between Great Britain and France.

The principle upon which his majesty finds himself compelled to proceed, would justify a complete and unqualified retaliation, on his part, of the system announced, and acted upon by France, in respect to his majesty's dominions : and his majesty might therefore have declared in a state of rigorous and unmitigated blockade, all the coasts and colonies of France and her allies. Such a measure, the maritime power of Great Britain would have enabled his majesty to enforce : nor would those nations, which have acquiesced, without effectual remonstrance, in the French decree of blockade, have derived any right from the perfect execution of a corresponding determination on the part of his majesty, to complain of his majesty's enforcing that measure, which the enemy has executed imperfectly, only from the want of the means of execution.

His majesty, however, actuated by the same sentiments of moderation, by which his majesty's conduct has been uniformly governed, has been desirous of alleviating, as much as possible, the inconveniences necessarily brought upon neutral nations, by a state of things so unfavourable to the commercial intercourse of the world ; and has therefore anxiously considered what modifications it would be practicable to apply to the principle upon which he is compelled to act, which would not, at the same time that they might afford relief from the pressure of that principle upon neutral or friendly nations, impede or enfeeble its operation upon the enemy.

In pursuance of this desire, the order in council, which, if it had ended with the sixth paragraph, would have been no more than a strict and justifiable retaliation for the French decree of November, 1806, proceeds, as you will observe, sir, to provide many material exceptions, which are calculated to qualify the operation of the order upon neutral nations in general, but which must be considered as most peculiarly favourable to the particular interests of the United States.

It will not escape you, sir, that by this order in council, thus modified and regulated, the direct intercourse of the United States with the colonies of the enemy is unrestrain-

ed ; an indulgence which, when it is considered to be (as it really is) not only a mitigation of that principle of just reprisal upon which the order itself is framed, but a deviation in favour of the United States, from that ancient and established principle of maritime law, by which the intercourse with the colonies of an enemy in time of war, is limited to the extent which that enemy was accustomed in time of peace to prescribe for it, and which, by reference to the conduct of France in a time of peace, would amount to a complete interdiction, cannot fail to afford to the American government a proof of the amicable disposition of his majesty towards the United States.

You will observe sir, also, that the transportation of the colonial produce of the enemy from the United States to Europe, instead of being altogether prohibited (which would have been the natural retaliation for the rigorous and universal prohibition of British produce and manufactures by France,) is freely permitted to the ports of Great Britain, with the power of subsequently re-exporting it to any part of Europe, under certain regulations.

The object of these regulations will be the establishment of such a protecting duty, as shall prevent the enemy from obtaining the produce of his own colonies at a cheaper rate than that of the colonies of Great Britain.—In this duty, it is evident that America is no otherwise concerned, than as being to make an advance to that amount for which it is in her own power amply to indemnify herself at the expense of the foreign consumer.

Another most important relaxation of the principles upon which his majesty's orders proceed, is that which licenses the importation of all flour and meal, and all grains, tobacco and other articles, the produce of the soil of America, with the exception of cotton, through the ports of his majesty's dominions, into those of his enemies, without the payment of any duty on the transit. This is, I beg leave to observe, an instance in which his majesty has deprived his measure of its most efficacious and hurtful operation against the enemy, through motives of consideration for the interests of America. The reason why his majesty could not feel himself at liberty, consistent with what was necessary for the execution of his purpose, in any tolerable degree, to allow this relaxation to apply to cotton, is to be found in the great extent to which



France has pushed the manufacture of that article, and the consequent embarrassment upon her trade, which a heavy impost upon cotton, as it passes through Great Britain to France, must necessarily produce.

I cannot refrain from calling the attention of the government of the United States, to the contrast between the different modes in which his majesty's orders and those of France are carried into execution. By his majesty's, the utmost consideration is manifested for the interests of those nations whose commerce he is reluctantly compelled to impede, and ample time allowed for their becoming acquainted with the new regulations, and conforming to them.—Whereas France, without any previous notice, and without any interval, applies her orders to trade already entered upon in ignorance of any such orders, and subjects to condemnation ships, whose voyages, when commenced, were in strict conformity to all the regulations at that time promulgated by France.

Even with these and other modifications, his majesty is not unaware that a measure extorted from him by the injustice of the enemy, must inevitably produce inconveniences to the neutral parties who are affected by its operation.

The right of his majesty to resort to retaliation, cannot be questioned. The suffering occasioned to neutral parties is incidental, and not of his majesty's seeking.

In the exercise of this undoubted right, his majesty has studiously endeavoured to avoid aggravating unnecessarily the inconveniences suffered by the neutral. And I am commanded by his majesty, especially, to represent to the government of the United States, the earnest desire of his majesty, to see the commerce of the world restored once more to that freedom which is necessary for its prosperity; and his readiness to abandon the system which has been forced upon him, whenever the enemy shall retract the principles which have rendered it necessary; but his majesty entertains the conviction, upon which alone his present measures are founded, that it would be vain to hope for such a retraction, until the enemy shall himself have been made to feel a portion of the evils which he has endeavoured to inflict upon others.

I have the honour to be, &c.

D. M. ERSKINE.

Hon. James Madison, Secretary of State.

*Translation of a Letter from M. Champagny to General Armstrong. Paris, Jan. 15, 1808.*

SIR,—The different notes which you have done me the honour to address to me, have been laid before his majesty.

The proceedings of England towards all governments are so contrary to the law of nations, and to all the rules constantly observed, even among enemies, that no recourse against this power is any longer to be found in the ordinary means of repression. In order to annoy her, it is become necessary to turn against her the arms which she makes use of herself; and if transient inconveniences result therefrom, it is to her alone they are to be imputed. Since England respects no laws, how could they be respected with regard to her? The maritime laws which she violates, ought they still to be a protection to her? And if some powers tolerate the infractions committed on their independence, could they have the right to require, that France alone should restrain herself within limits which her enemy has every where overleaped?

The United States, more than any other power, have to complain of the aggressions of England. It has not been enough for her to offend against the independence of her flag, nay, against that of their territory, and of their inhabitants, by attacking them even in their ports, by forcibly carrying away their crews; her decrees of the 11th November have made a fresh attack on their commerce, and on their navigation, as they have done on those of all other powers.

In the situation in which England has placed the continent, especially since her decrees of the 11th of November, his majesty has no doubt of a declaration of war against her by the United States. Whatever transient sacrifices war may occasion, they will not believe it consistent either with their interest or dignity to acknowledge the monstrous principle, and the anarchy which that government wishes to establish on the seas. If it be useful and honourable for all nations to cause the true maritime law of nations to be re-established, and to avenge the insults committed by England against every flag, it is indispensable for the United States, who, from the extent of their commerce, have oftener to complain of those violations. War exists, then,

in fact, between England and the United States ; and his majesty considers it as declared from the day on which England published her decrees. In that persuasion, his majesty, ready to consider the United States as associated with the cause of all the powers, who have to defend themselves against England, has not taken any definitive measure towards the American vessels which may have been brought into our ports. He has ordered that they should remain sequestered, until a decision may be had thereon, according to the dispositions which shall have been expressed by the government of the United States.

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## REPORT

OF THE COMMITTEE TO WHOM WAS REFERRED THE CORRESPONDENCE BETWEEN MR. MONROE AND MR. CANNING, &c. &c. &c. IN SENATE, APRIL 16, 1808.

MR. ANDERSON, from the committee to whom was referred, on the 4th instant, the correspondence between Mr. Monroe and Mr. Canning, and between Mr. Madison and Mr. Rose, relative to the attack made upon the frigate Chesapeake, by the British ship of war Leopard ; and also the communications made to the Senate, by the President of the United States, on the 30th day of March last, containing a letter from Mr. Erskine to the Secretary of State, and a letter from M. Champagny to general Armstrong, reported :—

That on a review of the several orders, decrees, and decisions of Great Britain and France, within the period of the existing war, it appears, that previous to the measures referred to in the letters from Mr. Erskine to the Secretary of State, and from M. Champagny to general Armstrong, various and heavy injuries have been committed against the neutral commerce and navigation of the United States, under the following heads :

1st. The British order of June, 1803, unlawfully restricting the trade of the United States, with a certain portion of the unblockaded ports of her enemies, and con-

condemning vessels with innocent cargoes, on a return from ports where they had deposited contraband articles.

2d. The capture and condemnation, in the British courts of admiralty, of American property, on a pretended principle, debarring neutral nations from a trade with the enemies of Great Britain, interdicted in time of peace. The injuries suffered by the citizens of the United States, on this head, arose, not from any publick order of the British council, but from a variation in the principle, upon which the courts of admiralty pronounced their decisions. These decisions have indeed again varied, without any new orders of council being issued; and in the higher courts of admiralty, some of the decisions which had formed the greatest cause for complaint, have been reversed, and the property restored. There still remains, however, a heavy claim of indemnity for confiscations, which were made during the period of these unwarrantable decisions, and for which all negotiation has hitherto proved unavailing.

3d. Blockades notified to the minister of the United States at London, and thence made a ground of capture, against the trade of the United States, in entire disregard of the law of nations, and even of the definition of legal blockades, laid down by the British government itself. Examples of these illegitimate blockades will be found in the notifications of the blockade of May 16th, 1806, of the coast from the river Elbe to Brest inclusive—blockade of 11th May, 1807, expounded 19th June, 1807, of the Elbe, Weser, and Ems, and the coast between the same—blockade 11th May, 1807, of the Dardanelles and Smyrna—blockade of 8th January, 1808, of Carthagen, Cadiz, and St. Lucar, and of all the intermediate ports between Carthagen and St. Lucar, comprehending a much greater extent of coast than the whole British navy could blockade, according to the established law of nations.

4th. To these injuries immediately authorized by the British government, might be added other spurious blockades by British naval commanders, particularly that of the island of Curacao, which for a very considerable period, was made a pretext for very extensive spoiliations on the commerce of the United States.

5th. The British proclamation of October last, which makes it the duty of the British officers to impress from American merchant vessels, all such of their crews as

might be taken or mistaken for British subjects—those officers being the sole and absolute judges in the case.

For the decrees and acts of the French government, violating the maritime law of nations, in respect to the United States, the committee refer to the instances contained in the report of the Secretary of State, January 25th, 1806, to the Senate, in one of which, viz. a decree of the French general Ferrand, at St. Domingo, are regulations sensibly affecting the neutral and commercial rights of the United States.

The French act next in order of time is the decree of November 21, 1806—declaring the British isles in a state of blockade, and professing to be a retaliation, on antecedent proceedings of Great Britain, violating the law of nations.

This decree was followed, first by the British order of January, 1807, professing to be a retaliation on that decree, and subjecting to capture the trade of the United States, from the port of one belligerent, to a port of another; and secondly, by the orders of November last, professing to be a further retaliation on the same decree, and prohibiting the commerce of neutrals, with the enemies of Great Britain, as explained in the aforesaid letter of Mr. Erskine.

These last British orders again, have been followed by the French decree of December 17th, purporting to be a retaliation on the said orders, and to be put in force against the commerce of the United States, as stated in the aforesaid letter of M. Champagny.

The committee forbear to enter into a comparative view of those proceedings, of the different belligerent powers, deeming it sufficient to present the materials, from which it may be formed. They think it their duty, nevertheless, to offer the following remarks, suggested by a collective view of the whole.

The injury and dangers resulting to the commerce of the United States, from the cause and increase of these belligerent measures, and from similar ones adopted by other nations, were such as first to induce the more circumspect of our merchants and ship owners, no longer to commit their property to the high seas, and at length to impose on Congress the indispensable duty of interposing

some legislative provision, for such an unexampled state of things.

Among other expedients out of which a choice was to be made, may be reckoned—

1st. A protection of commerce by ships of war.

2d. A protection of it by self armed vessels.

3d. A war of offence as well as of defence.

4th. A general suspension of foreign commerce.

5th. An embargo on our vessels, mariners and merchandise.

This last was adopted, and the policy of it was enforced, at the particular moment, by accounts quickly after confirmed, of the British orders of November, and by the probability that these would be followed, as has also happened, by an invigorated spirit of retaliation, in other belligerent powers. The happy effect of the precaution is demonstrated by the well known fact, that the ports of Europe are crowded with captured vessels of the United States, unfortunately not within the reach of the precaution.

With respect to a protection of our commerce by ships of war, it must be obviously impracticable, in any material degree, without a lapse of time, and an expense which amounts to a prohibition of that resort; besides that it would necessarily involve hostile collisions with one or more of the belligerent powers.

Self armed merchantmen would have the same tendency, at the same time, that they would be utterly inadequate to a security against the multiplied fleets and cruisers to be encountered.

An entire suspension of foreign commerce, as the resort in the first instance, would evidently have produced some inconveniences, not incident to the embargo, as it was modified. But the committee do not suppress their opinion, that after a reasonable time, it may not improperly take the place of the embargo; in case of a protracted adherence of the belligerent powers, to their destructive proceedings against our neutral commerce.

With respect to a resort to war, as a remedy for the evils experienced, the committee will offer no other reflection, than that it is in itself so great an evil, that the United States have wisely considered peace and honest neutrality, as the best foundation of their general policy. It is not for the committee to say under what degree of aggravated in-



juries, and sufferings, a departure from this policy may become a duty ; and the most pacifick nation find itself compelled to exchange for the calamities of war, the greater distresses of longer forbearance.

In the present state of things, the committee cannot recommend any departure from that policy which withholds our commercial and agricultural property, from the licensed depredations of the great maritime belligerent powers. They hope that an adherence to this policy will eventually secure to us the blessings of peace, without any sacrifice of our national rights ; and they have no doubt that it will be supported by all the manly virtue, which the good people of the United States have ever discovered, on great and patriotick occasions. But the committee would suggest, on this subject, that better councils in the belligerent governments, producing a juster conduct towards neutral nations, would render a continuance of the embargo unnecessary, and that it will be a provident measure to vest in the Executive a power, in such an event, to suspend until the next session of Congress, wholly, or in part, the several acts prohibiting the departure of our vessels for foreign ports.

Although the committee have abstained from entering into any particular comparison, of the proceedings of the French and British governments, towards the United States ; they cannot reconcile with their duty, or with the just sensibility of the nation, not to advert to the tenour and language of the late communications, made by the respective organs of those governments.

In the letter of M. Champagny, the United States are not only threatened with confiscation, as the final destiny of American property, seized under French decrees, unless disposition shall be manifested by them against Great Britain, satisfactory to France, but they are even declared, without reserve of any sort, to be actually in a state of war against Great Britain.

In the letter of Mr. Erskine to the Secretary of State, the United States are explicitly charged with justly subjecting their commerce to confiscations under the British orders, by not opposing an effectual resistance against the decrees of France ; in other words, by not making war against that nation, in case no other interposition should be effectual.

There are in this exposition of the British orders, certain features, which claim particular attention ; among the regulations of which they consist, it is provided, that the commerce of the United States, bound from their own ports to its legal and ordinary markets, shall pass through British ports, shall there, in all cases, take their clearances from British officers, shall, in some cases, obtain special licenses, and in others, pay a direct and avowed tax ; thus putting the United States on a commercial footing, even worse than was allowed to British colonies—which were left free to carry their exports directly to foreign markets, in cases where an intermediate voyage to the parent country would be too oppressive. In the present case, not a single article is permitted to be sent from the United States to the most southern parts of Europe, without a previous voyage to Great Britain, and in some instances, not without purchasing even that privilege, without paying a tribute to the British treasury.

The committee have taken into consideration the documents relating to the attack on the frigate *Chesapeake* ; but they have not deemed it their duty, in the actual posture of that subject, to make any other remark, than that it strengthens the motives for persevering in all the provisional and precautionary measures hitherto contemplated.

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO BOTH  
HOUSES OF CONGRESS. NOV. 8, 1808.

To the Senate, and House of Representatives  
of the United States.

It would have been a source, fellow citizens, of much gratification, if our last communications from Europe had enabled me to inform you, that the belligerent nations, whose disregard of neutral rights has been so destructive to our commerce, had become awakened to the duty and true policy of revoking their unrighteous edicts. That no means might be omitted to produce this salutary effect, I

lost no time in availing myself of the act authorizing a suspension, in whole or in part, of the several embargo laws. Our ministers at London and Paris were instructed to explain to the respective governments there, our disposition to exercise the authority in such manner as would withdraw the pretext on which the aggressions were originally founded, and open the way for a renewal of that commercial intercourse which it was alleged on all sides had been reluctantly obstructed. As each of those governments had pledged its readiness to concur in renouncing a measure which reached its adversary though the incontestable rights of neutrals only, and as the measure had been assumed by each as a retaliation for an asserted acquiescence in the aggressions of the other, it was reasonably expected that the occasion would have been seized by both for evincing the sincerity of their professions, and for restoring to the commerce of the United States its legitimate freedom. The instructions to our ministers, with respect to the different belligerents, were necessarily modified with a reference to their different circumstances, and to the condition annexed by law to the executive power of suspension, requiring a degree of security to our commerce which would not result from a repeal of the decrees of France. Instead of a pledge, therefore, for a suspension of the embargo as to her in case of such a repeal, it was presumed that a sufficient inducement might be found in other considerations, and particularly in the change produced by a compliance with our just demands by one belligerent, and a refusal by the other, in the relations between this other and the United States. To Great Britain, whose power on the ocean is so ascendant, it was deemed not inconsistent with that condition, to state explicitly, that on her rescinding her orders in relation to the United States, their trade would be opened with her, and remain shut to her enemy, in case of his failure to rescind his decrees also. From France no answer has been received, nor any indication that the requisite change in her decrees is contemplated. The favourable reception of the proposition to Great Britain was the less to be doubted, as her orders of council had not only been referred for their vindication to an acquiescence on the part of the United States, no longer to be pretended, but as the arrangement proposed, whilst it resisted the illegal decrees of France, involved, moreover, substantially, the precise

advantages professedly aimed at by the British orders. The arrangement has, nevertheless, been rejected.

This candid and liberal experiment having thus failed, and no other event having occurred on which a suspension of the embargo by the Executive was authorized, it necessarily remains in the extent originally given to it. We have the satisfaction, however, to reflect, that in return for the privations imposed by the measure, and which our fellow citizens in general have borne with patriotism, it has had the important effects of saving our mariners, and our vast mercantile property, as well as of affording time for prosecuting the defensive and provisional measures called for by the occasion. It has demonstrated to foreign nations the moderation and firmness which govern our councils, and to our citizens the necessity of uniting in support of the laws and the rights of their country, and has thus long frustrated those usurpations and spoliations which, if resisted, involved war, if submitted to, sacrificed a vital principle of our national independence.

Under a continuance of the belligerent measures, which, in defiance of laws which consecrate the rights of neutrals, overspread the ocean with danger, it will rest with the wisdom of Congress to decide on the course best adapted to such a state of things; and bringing with them, as they do, from every part of the Union, the sentiments of our constituents, my confidence is strengthened, that in forming this decision, they will, with an unerring regard to the essential rights and interests of the nation, weigh and compare the painful alternatives out of which a choice is to be made. Nor should I do justice to the virtues, which on other occasions have marked the character of our fellow citizens, if I did not cherish an equal confidence, that the alternative chosen, whatever it may be, will be maintained with all the fortitude and patriotism which the crisis ought to inspire.

The documents, containing the correspondences on the subject of the foreign edicts against our commerce, with the instructions given to our ministers at London and Paris, are now laid before you.

The communications, made to Congress at their last session, explained the posture in which the close of the discussions relative to the attack by a British ship of war on the frigate Chesapeake left a subject on which the na-

tion had manifested so honourable a sensibility. Every view of what had passed, authorized a belief that immediate steps would be taken by the British government for redressing a wrong, which, the more it was investigated, appeared the more clearly to require what had not been provided for in the special mission. It is found that no steps have been taken for the purpose. On the contrary, it will be seen in the documents laid before you, that the inadmissible preliminary, which obstructed the adjustment, is still adhered to; and, moreover, that it is now brought into connexion with the distinct and irrelative case of the orders in council. The instructions which had been given to our minister at London, with a view to facilitate, if necessary, the reparation claimed by the United States, are included in the documents communicated.

Our relations with the other powers of Europe have undergone no material changes since your last session. The important negotiations with Spain, which had been alternately suspended and resumed, necessarily experience a pause under the extraordinary and interesting crisis which distinguishes her internal situation.

With the Barbary powers we continue in harmony, with the exception of an unjustifiable proceeding of the dey of Algiers towards our consul to that regency. Its character and circumstances are now laid before you, and will enable you to decide how far it may either now or hereafter call for any measures not within the limits of the executive authority.

With our Indian neighbours the publick peace has been steadily maintained. Some instances of individual wrong have as at other times taken place, but in no wise implicating the will of the nation. Beyond the Mississippi, the Ioways, the Sacs, and the Alibamas, have delivered up for trial and punishment individuals from among themselves, accused of murdering citizens of the United States. On this side of the Mississippi, the Creeks are exerting themselves to arrest offenders of the same kind, and the Choctaws have manifested their readiness and desire for amicable and just arrangements respecting depredations committed by disorderly persons of their tribe. And generally, from a conviction that we consider them as a part of ourselves, and cherish with sincerity their rights and interests, the attachment of the Indian tribes is gaining



strength daily, is extending from the nearer to the more remote, and will amply requite us for the justice and friendship practised towards them. Husbandry and household manufacture are advancing among them, more rapidly with the southern than northern tribes, from circumstances of soil and climate; and one of the two great divisions of the Cherokee nation have now under consideration to solicit the citizenship of the United States, and to be identified with us in laws and government in such progressive manner as we shall think best.

In consequence of the appropriations of the last session of Congress for the security of our sea-port towns and harbours, such works of defence have been erected as seemed to be called for by the situation of the several places, their relative importance, and the scale of expense indicated by the amount of the appropriation. These works will chiefly be finished in the course of the present season, except at New York and New Orleans, where most was to be done: and although a great proportion of the last appropriation has been expended on the former place, yet some further views will be submitted to Congress for rendering its security entirely adequate against naval enterprise. A view of what has been done at the several places, and of what is proposed to be done, shall be communicated as soon as the several reports are received.

Of the gun-boats authorized by the act of December last, it has been thought necessary to build only one hundred and three in the present year. These, with those before possessed, are sufficient for the harbours and waters most exposed, and the residue will require little time for their construction when it shall be deemed necessary.

Under the act of the last session for raising an additional military force, so many officers were immediately appointed as were necessary for carrying on the business of recruiting, and in proportion as it advanced, others have been added. We have reason to believe their success has been satisfactory, although such returns have not yet been received as enable me to present you a statement of the numbers engaged.

I have not thought it necessary in the course of the last season to call for any general detachments of militia or of volunteers, under the laws passed for that purpose. For



the ensuing season, however, they will be required to be in readiness, should their service be wanted. Some small and special detachments have been necessary to maintain the laws of embargo, on that portion of our northern frontier which offered peculiar facilities for evasion, but these were replaced as soon as it could be done by bodies of new recruits. By the aid of these, and of the armed vessels called into service in other quarters, the spirit of disobedience and abuse, which manifested itself early, and with sensible effect while we were unprepared to meet it, has been considerably repressed.

Considering the extraordinary character of the times in which we live, our attention should unremittingly be fixed on the safety of our country. For a people who are free, and who mean to remain so, a well organized and armed militia is their best security. It is therefore incumbent on us, at every meeting, to revise the condition of the militia, and to ask ourselves if it is prepared to repel a powerful enemy at every point of our territories exposed to invasion? Some of the states have paid a laudable attention to this object; but every degree of neglect is to be found among others. Congress alone having the power to produce an uniform state of preparation in this great organ of defence, the interests which they so deeply feel in their own and their country's security will present this as among the most important objects of their deliberation.

Under the acts of March eleventh and April twenty-third, respecting arms, the difficulty of procuring them from abroad during the present situation and dispositions of Europe induced us to direct our whole efforts to the means of internal supply. The publick factories have therefore been enlarged, additional machineries erected, and in proportion as artificers can be found or formed, their effect, already more than doubled, may be increased so as to keep pace with the yearly increase of the militia. The annual sums appropriated by the latter act have been directed to the encouragement of private factories of arms, and contracts have been entered into with individual undertakers to nearly the amount of the first year's appropriation.

The suspension of our foreign commerce, produced by the injustice of the belligerent powers, and the consequent losses and sacrifices of our citizens, are subjects of just

concern. The situation into which we have thus been forced, has impelled us to apply a portion of our industry and capital to internal manufactures and improvements. The extent of this conversion is daily increasing, and little doubt remains that the establishments formed and forming will, under the auspices of cheaper materials and subsistence, the freedom of labour from taxation with us, and of protecting duties and prohibitions, become permanent. The commerce with the Indians, too, within our own boundaries, is likely to receive abundant aliment from the same internal source, and will secure to them peace and the progress of civilization undisturbed by practices hostile to both.

The accounts of the receipts and expenditures during the year ending on the 30th day of September last, being not yet made up, a correct statement will hereafter be transmitted from the treasury. In the mean time it is ascertained that the receipts have amounted to near eighteen millions of dollars, which with the eight millions and a half in the treasury at the beginning of the year, have enabled us, after meeting the current demands, and interest incurred, to pay two millions three hundred thousand dollars of the principal of our funded debt, and left us in the treasury on that day near fourteen millions of dollars. Of these, five millions three hundred and fifty thousand dollars will be necessary to pay what will be due on the first day of January next, which will complete the reimbursement of the eight per cent. stock. These payments, with those made in the six years and a half preceding, will have extinguished thirty-three millions five hundred and eighty thousand dollars of the principal of the funded debt, being the whole which could be paid or purchased within the limits of the law and of our contracts, and the amount of principal thus discharged will have liberated the revenue from about two millions of dollars of interest, and added that sum annually to the disposable surplus. The probable accumulation of the surplusses of revenue beyond what can be applied to the payment of the publick debt, whenever the freedom and safety of our commerce shall be restored merits the consideration of Congress. Shall it lie unproductive in the publick vaults? shall the revenue be reduced? or shall it not rather be appropriated to the improvements of roads, canals, rivers, education, and other great

foundations of prosperity and union, under the powers which Congress may already possess, or such amendment of the constitution as may be approved by the states? While uncertain of the course of things, the time may be advantageously employed in obtaining the powers necessary for a system of improvement, should that be thought best.

Availing myself of this, the last occasion which will occur of addressing the two houses of the legislature at their meeting, I cannot omit the expression of my sincere gratitude, for the repeated proofs of confidence manifested to me by themselves and their predecessors since my call to the administration, and the many indulgences experienced at their hands. The same grateful acknowledgments are due to my fellow citizens generally, whose support has been my great encouragement under all embarrassments. In the transaction of their business I cannot have escaped error. It is incident to our imperfect nature. But I may say with truth my errors have been of the understanding, not of intention, and that the advancement of their rights and interests has been the constant motives for every measure. On these considerations I solicit their indulgence. Looking forward with anxiety to their future destinies, I trust that in their steady character, unshaken by difficulties, in their love of liberty, obedience to law, and support of the publick authorities, I see a sure guaranty of the permanence of our republic; and retiring from the charge of their affairs, I carry with me the consolation of a firm persuasion, that Heaven has in store for our beloved country, long ages to come of prosperity and happiness.

TH : JEFFERSON.

## DOCUMENTS

ACCOMPANYING THE MESSAGE FROM THE PRESIDENT OF THE  
UNITED STATES. NOVEMBER 8, 1808.

*Mr. Madison, Secretary of State, to General Armstrong,  
Minister Plenipotentiary of the U. States at Paris.*

## EXTRACTS.

*Department of State, May 22, 1807.*

“THE two last letters received from you were of December 24 and January 16.

“The decree of November 21, communicated in the first, had previously reached us, and had excited apprehensions which were repressed only by the inarticulate import of its articles, and the presumption that it would be executed in a sense not inconsistent with the respect due the treaty between France and the United States. The explanations given you by the minister of marine were seen by the President with much pleasure, and it only remains to learn that they have been confirmed by the express authority of the emperor. We are the more anxious for this information, as it will fortify the remonstrances which have been presented at London against the British order of January 7th. Should it, contrary to expectation, turn out that the French decree was meant, and is to operate according to the latitude of its terms, you will of course have made the proper representations, grounded as well on the principles of publick law, as on the express stipulations of the convention of 1800. Nothing, besides, could be more preposterous than to blend with an appeal to neutral rights and neutral nations, a gross infraction of the former, and outrage on the sentiments of the latter; unless it be to invite a species of contest on the high seas, in which the adversary has every possible advantage. But on the more probable supposition that the decree will not be unfavourably expounded, it will be still necessary to press on the French government a despatch of such orders to their cruisers, in every quarter, as will prevent a construction of the decree favourable

to their licentious cupidity. The moment your letter was received, the answer of the French minister of marine to your note was communicated to general Turreau, with a call on him to transmit it immediately to the French governors in the West Indies. This he readily engaged to do. But notwithstanding this precaution, there are proofs that the West India privateers have, under colour of the edict, committed depredations which will constitute just claims of redress from their government.

“Mr. Erving has forwarded a Spanish decree also, avowedly pursuing the example and the views of the French emperor. The terms of this decree are even more vague, or rather more broad, than those of the prototype ; and if not speedily recalled or corrected, will doubtless extend the scene of spoliations already begun in that quarter, and of course thicken the cloud that hangs over the amity of the two nations.”

*Extract of a Letter from Mr. Madison to Gen. Armstrong.  
Department of State, Feb. 8th, 1808.*

“YOUR letters and communications by doctor Bullus were duly delivered on the fourteenth day of December. The same conveyance brought a copy of the sentence pronounced by the French prize court in the case of the *Horizon*, giving a judicial effect to the decree of November 21, 1806, as expounded in the answer of M. Champagny to your letter of the 12th November, 1807.

Whilst the French government did not avow or enforce a meaning of the decree of November, 1806, in relation to the United States, extending its purview beyond the municipal limits, it could not in strictness be regarded as an infraction either of our neutral or conventional rights ; and consequently did not authorize more than a demand of seasonable explanations of its doubtful import, or friendly expostulations with respect to the rigour and suddenness of its innovations.

The case is now essentially changed. A construction of the decree is avowed and executed, which violates as well the positive stipulations of the convention of September 30th, 1800, as the incontestable principles of publick law ; and the President charges you to superadd to what-

ever representations you may have previously made, a formal remonstrance in such terms as may be best calculated either to obtain a recall of the illegal measure, so far as it relates to the United States, or to have the effect of leaving in full force all the rights accruing to them from a failure to do so.

That the execution of local laws against foreign nations on the high seas, is a violation of the rights of the former and the freedom of the latter, will probably not be questioned. A contrary principle would in fact imply the same exclusive dominion over the entire ocean as is enjoyed within the limits of the local sovereignty, and a degradation of every other nation from its common rights and equal rank.

If it be contended that the decree, as a retaliation on the other belligerent, at the expense of neutral nations, is justified by a culpable acquiescence in the prior measures of that belligerent, operating through neutrals, you will be able to deny such acquiescence, and to urge moreover that, on every supposition, the retaliating measure could not be justly enforced in relation to neutrals, without allowing them at least a reasonable time for choosing between due measures against the prior wrong and an acquiescence in both. The copy of the representations to the British government through its minister here, on the subject of its orders of January, 1807, will at once disprove an acquiescence on the part of the United States, and explain the grounds on which the late extension of the French decree of November, 1806, is an object of just remonstrance.

The conduct of the French government in giving this extended operation to its decree, and indeed in issuing one with such an apparent or doubtful import against the rights of the sea, is the more extraordinary, inasmuch as the inability to enforce it on that element exhibited the measure in the light of an empty menace, at the same time that it afforded pretexts to her enemy for severe retaliations, for which ample means are found in her naval superiority.

The accumulated dangers, to which the illegal proceedings of the belligerent nations have subjected the commerce and navigation of the United States, have at length induced Congress to resort to an embargo on our own ves-



sels, as a measure best fitted for the crisis; being an effectual security for our mercantile property and mariners now at home and daily arriving, and at the same time neither a measure nor just cause of war. Copies of this act were soon after its passage transmitted to Mr. Pinkney, with an authority to assure the British government that it was to be viewed in this light; and that it was not meant to be the slightest impediment to amicable negotiations with foreign governments. He was requested to avail himself of an opportunity of communicating to you and Mr. Erving this view of the subject, and I hope that you will have been thence enabled to present it to the French government. Not relying however on that indirect opportunity, I send by this another copy of the act, with an instruction from the President, that you make it the subject of such explanations as will guard against any misconception of the policy which led to it. It is strictly a measure of precaution required by the dangers incident to external commerce, and being indiscriminate in its terms and operation towards all nations, can give no just offence to any. The duration of the act is not fixed by itself; and will consequently depend on a continuance or cessation of its causes in a degree sufficient in the judgment of the legislature to induce or forbid its repeal. It may be hoped that the inconveniences felt from it by the belligerent nations, may lead to a change of the conduct which imposed the inconveniences of it on ourselves. France herself will be a sufferer, and some of her allies far more so. It will be very agreeable to find in that consideration, and still more in her sense of justice, a sufficient motive to an early manifestation of the respect due to our commercial rights. The example would be worthy of the professions which she makes to the world on this subject.

" FEB. 18. Since the above was written, I have been under a degree of indisposition, which has suspended the proposed continuation of it, and which now will oblige me to be very brief; the more so, as the vessel has been some days detained, which was engaged for the special purpose of conveying publick despatches and private letters to Europe.

" The delay has enabled me to inform you, that Mr. Erskine, a few days ago, communicated by instructions

from his government, its late decrees of November 11th, and those forming a sequel to them. The communication was accompanied with assurances that much regret was felt by his Britannick majesty, at the necessity which the conduct of his enemy had created for measures so embarrassing to neutral commerce, and that his majesty would readily follow an example of relinquishing such a course, or even of making relaxations, *pari passu*, with his enemy.

“Whether these intimations have any reference to the distinction between such parts of the French decree as operate municipally on shore, and such as operating on the high seas, violate the rights of neutrals, or to a distinction between the former restriction and the late extension of the decree with respect to the United States, Mr. Erskine did not seem authorized to say. The probability is, that neither of these distinctions entered into the views of the British cabinet. But it is certainly neither less the duty nor the true policy of the emperor of the French so to vary his decree as to make it consistent with the rights of neutrals and the freedom of the seas, and particularly with his positive stipulations to the United States. This may be the more reasonably expected, as nothing can be more clear, as has been already observed, than that the effect of the decree, as far as it can be carried into effect, would not be sensibly diminished by abolishing its operation beyond the limits of the territorial sovereignty.

“In remonstrating against the injustice and illegality of the French decree, I am aware that you may be reminded of antecedent injuries to France and her allies through British violations of neutral commerce. The fact cannot be denied, and may be urged with great force, in our remonstrances against the orders to which Great Britain has given a retaliating character; since the French decree might on the same ground be pronounced a retaliation on the preceding conduct of Great Britain. But ought the legitimate commerce of neutrals to be thus the victim and the sport of belligerents contesting with each other the priority of their destructive innovations; and without leaving, either of them, to neutrals, even the opportunity or the time for disproving that culpable acquiescence which is made the pretext by both for the wrongs done to them?

And I must repeat that, apart from all questions of this nature, the French decree, or at least the illegal extensions of it to the United States, remain chargeable with all the impolicy which has been pointed out.

“ I find by accounts from Hamburgh, Bremen, Holland, and Leghorn, that the trade and property of our citizens have been much vexed by regulations subaltern to those of the original decree of November 21, 1806. How far the complaints are founded on proceedings violating our publick rights, or on such as are unfriendly and inequitable towards our citizens who have placed their property within those jurisdictions, you will be able to decide better than we can do at this distance ; and the President refers to your own judgment the kind of representation to the French government, which those and other analogous cases may require.”

*Extracts of a Letter from Mr. Madison to General Armstrong. Department of State, May 2, 1808.*

“ SINCE my last, of which lieutenant Lewis was the bearer, I have received your several letters of 27th December, 22d January, 15th and 17th February, with their respective enclosures.

That of the 15th January from M. Champagny to you, has, as you will see by the papers herewith sent, produced all the sensations here, which the spirit and style of it were calculated to excite in minds alive to the interests and honour of the nation. To present to the United States the alternative of bending to the views of France against her enemy, or of incurring a confiscation of all the property of their citizens carried into the French prize courts, implied that they were susceptible of impressions by which no independent and honourable nation can be guided, and to prejudge and pronounce for them the effect which the conduct of another nation ought to have on their councils and course of proceeding, had the air, at least, of an assumed authority, not less irritating to the publick feelings. In these lights, the President makes it your duty to present to the French government the contents of M. Champagny's letter ; taking care, as your discretion will doubtless suggest, that whilst you make that government sensible of the

offensive tone employed, you leave the way open for friendly and respectful explanations, if there be a disposition to offer them ; and for a decision here on any reply which may be of a different character."

" Congress closed their session on the 25th ult. For a general view of their proceedings, I refer to the series of newspapers heretofore and now forwarded, and to other prints which are added. Among their acts of chief importance, is that which vests in the President an authority to suspend, in whole or in part, the embargo laws.

The conditions on which the suspending authority is to be exercised will engage your particular attention. They appeal equally to the justice and the policy of the two great belligerent powers, now emulating each other in violations of both. The President counts on your best endeavours to give to this appeal all the effect possible with the French government. Mr. Pinkney will be doing the same with that of Great Britain. The relation in which a recall of its retaliating decrees by either power, will place the United States to the other is obvious ; and ought to be a motive to the measure proportioned to the desire which has been manifested by each, to produce collisions between the United States and its adversary ; and which must be equally felt by each to avoid one with itself.

Should wiser councils or increasing distresses induce Great Britain to revoke her impolitick orders against neutral commerce, and thereby prepare the way for a removal of the embargo as it applies to her, France could not persist in the illegal part of her decrees, if she does not mean to force a contest with the United States. On the other hand, should she set the example of revocation, Great Britain would be obliged, either by following it, to restore to France the full benefit of neutral trade which she needs, or by persevering in her obnoxious orders after the pretext for them had ceased, to render collisions with the United States inevitable.

In every point of view, therefore, it is so clearly the sound policy of France, to rescind so much at least of her decrees as trespass on neutral rights, and particularly to be the first in taking the retrograde step, that it cannot be unreasonable to expect that it will be immediately taken.

In whatever degree the French government may be led to change its system, you will lose no time in transmitting the information to this department, and to Mr. Pinkney, and by hired conveyances if necessary. A correspondent instruction is given to Mr. Pinkney.

It is of the greater importance that you should receive from each other the earliest notice of any relaxations, as each government is under a pledge to follow such an example by the other. And it is not of less importance that the President or Congress should be acquainted with the facts, that the proceedings here may be accommodated to them."

"That you may know the grounds on which the British orders of November have been arraigned by this government, I enclose a copy of the answer to Mr. Erskine's note communicating them, a copy of the note being also enclosed.

The other documents communicated will put you in full possession of the relations of the United States with Great Britain, as resulting from the issue of our general negotiations, and from that of the mission of Mr. Rose.

This despatch is forwarded by Mr. Baker, who takes his passage from Baltimore, in a vessel engaged as was the *Osage*, which sailed from New York, for the special purpose of publick and mercantile correspondence with Europe. She will proceed, in the first instance, to L'Orient, where she will leave Mr. Baker, and thence proceed with despatches for Mr. Pinkney to Falmouth, where she will remain a few days to receive communications from him; she will then return to L'Orient, in order to bring back Mr. Baker with your communications."

*Mr. Madison, to General Armstrong. Department of State,  
July 21, 1808.*

SIR,—Herewith you will receive a copy of the papers relating to one of the vessels which were destroyed at sea by the French frigates returning from the West Indies. I observe that in your letter to M. Champagny, of the 2d of April, you have incidentally noticed this occurrence. If ample reparation should not have been made to the sufferers, the President thinks it proper, that as their cases



become authenticated, you should present them in terms which may awaken the French government to the nature of the injury and the demands of justice. The burning of neutral vessels detained on the high seas is the most distressing of all the modes by which belligerents exert force contrary to right; and in proportion as it is destitute of apology, ought at least to be the promptitude and amplitude of the redress. If it be contended that the destruction in these cases proceeded solely from the danger that, otherwise, intelligence might reach a pursuing or hovering force, it may be answered, that if such a plea were of greater avail, it would only disprove a hostility of intention, without diminishing the obligation to indemnify, on the most liberal scale, the injured individuals. It may be added, that if the outrage on the individuals was not meant as a hostility towards their nation, the latter might justly expect a tender of such explanations as would leave no doubt on this subject.

I have the honour to be, &c.

JAMES MADISON.

Gen. Armstrong, Minister Plenipotentiary  
of the U. States, Paris.

[The remaining communications accompanying the last message of the President, will be printed first in VOL. VII.]

END OF VOL. VI.









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